

GOVERNOR'S ADVISORY PANEL ON HATE GROUPS

FINAL REPORT

January 2000

LETTER FROM THE PANEL TO THE GOVERNOR

January 2000

TO: The Honorable Gray Davis
Governor of the State of California

Dear Governor Davis:

It is our privilege to present the report of the Governor's Panel on Hate Groups.

In response to your charge, we have focused on hate *groups*, rather than the broader subject of hate crimes, although there are inevitable cross-overs. Since the Panel began its work in September, 1999, we have sought to survey the problems hate groups pose to the citizens and communities of California, while focusing on what can be done to minimize their influence.

This report documents our conclusions and makes proposals for your consideration.

Starting in October, the Panel met several times to consider the data and formulate our recommendations. We have narrowed the scope of our work so that it could be completed, as you requested, by the end of 1999. We have been conscious of the fact that our recommendations should be available to be considered in this year's session of the California Legislature. We would not have been able to meet this time schedule without the full support and cooperation that we received from law enforcement, community groups, education personnel, industry leaders, and others. The volunteer efforts of lawyers and other experts acknowledged in this report were also essential to this project.

We commend our proposals to your earnest consideration. While there are no easy solutions to the threats hate groups present, it is our conviction that, if implemented, these proposals will help to turn the tide against the grave problems presented by hate groups. We make these recommendations with the understanding that California is already a leader in the nation in terms of hate crimes legislation. We believe our recommendations, if implemented, however, would add significantly to California's response to these problems.

Respectfully submitted:

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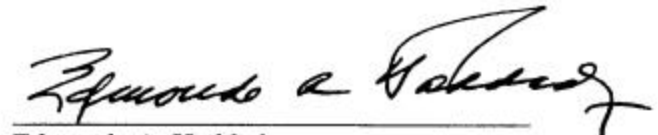

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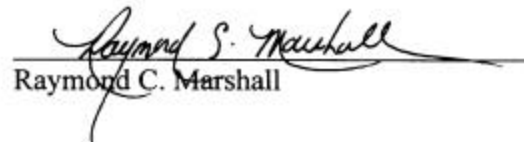

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OFFICE OF THE GOVERNOR

Blue Ribbon Panel on Laws Relating to Hate Groups

Mission Statement

Groups, associations and organizations whose principal activities or purposes are to foster hatred or incite violent acts towards any segment of the population are a danger to our society.

This danger is most critical when such "hate groups" actually act out, or incite others to act out, their hatred with violence on ethnic minorities, racial or religious groups, people of a specific gender or sexual orientation, or towards other segments of our population. The vile rhetoric of these hate groups may also incite violent acts against law enforcement officers, the judiciary, civic and government officials.

A comprehensive study of our laws relating to such hate groups, and the violent acts that are incited by them, would be of great benefit to the Executive, Legislative and Judicial Branches of our government in enacting, amending or administering our laws.

Accordingly, as Governor of the State of California, I have asked former U.S. Secretary of State Warren Christopher and former Governor George Deukmejian to conduct a comprehensive study and prepare a report with recommendations concerning the following principal areas:

A review of existing laws relating to possible criminal or civil liability of hate groups, their leaders and members generally and specifically as they relate to the incitement of violent acts against ethnic minorities, racial or religious groups, people of a specific gender or sexual orientation, or towards other segments of our population as well as law enforcement officers, the judiciary, civic and government officials.

A discussion of the laws or other measures that could be amended, enacted or implemented, within constitutional parameters, to minimize the influence of hate groups and violence incited by the doctrines they espouse.

Any other relevant recommendations that they deem appropriate for our consideration in dealing with hate groups and hate group incited violence.

Secretary Christopher and Governor Deukmejian are authorized to seek the advice of any experts in constitutional law, law enforcement or any other relevant field that they deem necessary to complete their study.

FINAL REPORT

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I. INTRODUCTION & SUMMARY

A. INTRODUCTION

1. The Presence And Impact of Hate Groups

In recent years, the United States has witnessed a series of heinous criminal acts committed by members of hate groups. California, a state of great diversity, is a particular target of hate-filled groups and those acting on their behalf or with their approval and encouragement. This year alone the State has experienced a veritable onslaught of criminal activity perpetrated by hate groups or those associated with such groups. The California Department of Justice issued statistics for 1998 detailing more than 1,800 hate crime offenses that involved 1,985 known suspects and 2,136 victims. About 65% of the events were motivated by the victim's race or ethnicity, and 22% by the victim's sexual orientation. Almost 70% of these offenses involved a violent crime. Although many such crimes appear to be the work of disenfranchised individuals acting on their own, the influence of hate groups frequently can be found in their troubled backgrounds. The Southern Poverty Law Center has identified thirty-six hate groups operating in California, and the California Department of Justice believes that there may be as many as 5,000 members or associates of gangs espousing racist beliefs.

The recent shooting of defenseless children and adults in the Jewish Community Center in Granada Hills and the subsequent murder of a Filipino-American postal employee bring to mind vivid images of the devastation these hateful acts produce. Farther north, two brothers associated with a white supremacist group were implicated in and subsequently charged with the murder of a gay couple in their home in Redding, California. Additionally, malicious acts of arson were perpetrated against the houses of worship of Congregation B'Nai Israel, Congregation Beth Shalom, and Knesset Israel Torah Center, all in Sacramento, in the dark of night on June 18, 1999. And again, arsonists attacked St. Mary Magdalene Roman Catholic Church on the Westside of Los Angeles less than one month later, on July 9, 1999. These and many other hateful acts serve as a tragic reminder of the impact upon, and the malevolence confronting our communities, friends, neighbors, and loved ones.

Aside from the impact on their victims, one of the most deleterious effects of hate groups is recruitment of youth. Hate groups previously had difficulty reaching potential recruits in widespread geographic locations because they were relegated to using low-tech printing presses

or rough copies of propaganda materials. However, with the advent of the Internet has come an unprecedented opportunity for hate groups to spread their message to young people. There has been an explosion of hate on the Internet since the first site was placed in operation in 1995 to what some estimate at over a thousand such sites at present, not counting e-mails and chat room activity. Today, there are scores of web sites dedicated to ideologies of hate, some of which are specifically targeted to the youngest children.

Through these sites, hate groups are able to invade homes and schools without any adult being aware of their presence. Such groups also use high schools as prime recruiting grounds, sometimes fostering conflict among racial and ethnic groups as a means to reach out to other students. An additional and often lucrative tool used for recruitment is "hate rock" music, often identified with neo-Nazi ideology, that incorporates lyrics of misogyny, racism and homophobia. The music can be purchased on the Internet or in some cases from hate-sponsored groups locally.

The rapidly changing demographics of California provide even more opportunity for hate groups. When a neighborhood undergoes a demographic shift from near homogeneity to a 25% or so minority population, it becomes ripe for hate group activity. Research suggests that those most vulnerable to hate group influence are young males in their late teens and early 20s who are economically marginalized, or perceive themselves to be so, and who lack a strong support system and otherwise feel disenfranchised.

The tale of Tobin, interviewed by the Southern Poverty Law Center, is a poignant illustration of how children can become entangled in hate groups:

Tobin is twenty-four now, and grew up in San Luis Obispo in what he describes as a dysfunctional family. He had an absentee father and a mentally ill alcoholic and drug addicted mother. Tobin's parents never married. An only and lonely child, Tobin, at age nine, began to hang out with older Skinheads who glorified working class whites. The older Skinheads took drugs, and soon so did Tobin. He was arrested for armed robbery at age fifteen and was in and out of the system for failed drug tests. Like other young men interviewed by the Southern Poverty Law Center, Tobin sought desperately to construct a family. He needed a history to give him roots, and found it in the white race. "I have a heritage, a culture, a past. My family. I'm proud of who I am, a white man of European descent. I have a history forever."

While children like Tobin are among the most susceptible to the allure of hate groups, others in less distressed circumstances also may fall prey to their advances.

**2. The Need For A Coordinated And Multi-Faceted Approach To
Combat Hate Groups**

While the societal challenge presented by hate groups and their activities is daunting, the State of California and its citizens have demonstrated an ability to rise to the challenge. In fact, California appears in many respects to be leading the way in developing strategies and programs to deal with this unique problem. California has an extensive set of civil and criminal laws that proscribe and penalize acts of hatred committed against others because of their race, color, religion, ancestry, national origin, disability, gender, or sexual orientation. In addition, a number of law enforcement agencies, educational organizations, and community interest groups have devoted substantial resources to combating hate groups and hate activity. While these commendable efforts have made enormous contributions, these dedicated agencies, organizations, and groups are the first to acknowledge that more can and should be done.

Toward this end, this Panel has endeavored to analyze the problem of hate groups as distinguished from the broader issue of hate crimes, and propose solutions that are faithful to the dictates of the United States Constitution and the Governor's request that we complete our work by the end of 1999. More specifically, the Panel has surveyed the current laws regarding hate-motivated behavior and has studied how law enforcement, public schools, community interest groups, the Internet industry, and other important segments of our society have approached the problems associated with hate groups.

In this report, the Panel summarizes the results of its study as follows: First, by describing the constitutional framework that must guide any governmental solutions to the problem; second, by providing the background that forms the factual predicate for proposing particular solutions; and finally, by making specific recommendations for the Governor's consideration. In doing so, we recognize that others will have different ideas that merit collective thought and consideration. It is nonetheless our hope that this report will stimulate the type of meaningful dialogue and coordinated action necessary to thwart the spread of hate-group activity throughout the state.¹

¹ In addressing this subject matter, it is useful to have a common understanding of the meaning of such terms as "hate group," "hate crimes," and "hate incidents." In the recommendation section of the report, the Panel proposes a common set of definitions.

B. SUMMARY

1. Formation of the Panel

On August 26, 1999, Governor Gray Davis announced the formation of a panel to survey current and potential laws relating to “hate groups” operating in California. Specifically, the Governor empowered the Panel to:

- Review existing laws relating to possible criminal or civil liability of hate groups, their leaders and members generally and specifically as they relate to incitement of violent acts against ethnic minorities, racial or religious groups, people of a specific gender or sexual orientation, or towards other segments of our population as well as law enforcement officers, the judiciary, civic, and government officials.
- Discuss the laws or other measures that could be amended, enacted, or implemented, within constitutional parameters, to minimize the influence of hate groups and violence incited by the doctrines they espouse.
- Provide relevant recommendations appropriate for the State’s consideration in dealing with hate groups and hate group-incited violence.

After appointing the co-chairs of the Panel, former Secretary of State Warren Christopher and former California Governor George Deukmejian, Governor Davis appointed the remaining panel members on October 6, 1999. Shortly after being fully constituted, the Panel began its study of the subject of hate groups in California with the objective of completing its study and report by the end of 1999, as requested by the Governor. The general scope of the work that the Panel performed and the materials considered are set forth in the Appendix to this Report beginning at page A-1.

2. Constitutional Limitations

The Advisory Panel has carefully considered the dangers hate groups pose to individuals and the social fabric of our communities. At the same time, however, it has carefully considered the need for the government to operate within constitutional boundaries. In making its recommendations, the Panel has observed four key distinctions based on the governing constitutional case law. First, while the government must allow free speech, it may regulate speech that incites an audience to actual violent conduct. Second, while the government’s regulations may not discriminate based on viewpoint, violent conduct directed at particular social groups may be selectively regulated. Third, while the government must respect individuals’

rights to free association, it may still use an individual's group associations as relevant evidence of criminal liability or for sentencing. Fourth, while the government may not punish individuals for their hateful ideas, it may freely use the power of public education and persuasion to combat and discourage such ideas. The Panel believes that the recommendations proposed in this Report comply with all constitutional constraints.

3. Areas of Focus in this Report

In analyzing the impact of hate groups in California, the Panel focused on five main areas: (1) Existing legislation in California; (2) law enforcement; (3) education; (4) the Internet; and (5) community, public interest, and society groups. The Panel determined that these areas were the most important to address within the time constraints of this report.

a. Legislation

California's laws addressing hate-motivated behavior are among the most comprehensive in the nation. The legislative scheme includes criminal and civil statutes that are designed to curb hate crimes in several different ways. The state may prosecute bias-motivated criminal behavior and may impose sentencing penalty enhancements once a defendant is convicted. The state and private individuals may bring civil actions for damages and injunctive relief when faced with bias-motivated behavior or intimidation. Additionally, California has statutes that restrict paramilitary activity and "paper terrorism," where documents, like false liens, are filed to harass and intimidate public officials and private individuals. These laws can be improved in ways that will further deter hate-motivated behavior.

b. Law Enforcement

A comprehensive set of laws, however, is not enough to stop hate groups' influence in California. Law enforcement, for example, must be able to use the laws to punish those who commit bias-motivated criminal acts. All law enforcement officials, from first response peace officers to corrections and probation personnel, routinely battle the consequences of hate-motivated behavior. There are many different areas of law enforcement involved in and dedicated to fighting hate crimes, including but not limited to: federal agents, state peace officers, state and federal corrections officers, state youth authority officials, and state and federal prosecutors. Each of these bodies of law enforcement have particular knowledge,

understanding, and resources that would be useful to the other bodies. While there are some inter-agency groups that help to facilitate communication among these groups, it is clear that to use all of these resources more effectively, improvement must be made in the areas of communication, information sharing, and adequate training.

c. Education

As members of law enforcement and every group surveyed for this Report indicated, education is a key component to any effort to stem the influence of hate groups in California. Young people must be taught about the importance of diversity, tolerance, respect, and peaceful conflict resolution. Increasingly, hate groups direct their propaganda at young students and their influence on school campuses is growing. At the same time, teachers and school administrators are not consistently trained to recognize hate-motivated behavior, and they also are not sure how to deal with hate-motivated conflict. Teachers and administrators must be able to handle students' behavior and concerns and ensure students' safety on campus. These needs in the public schools would be well-served by an improved tolerance and diversity curriculum for students in the lower elementary grades and by improved teacher and administrator training in hate groups and hate-motivated behavior.

d. Internet

While hate groups have found new recruits on school campuses, the Internet has proven to be perhaps the most useful tool for hate groups to spread their message, propaganda, and influence throughout California and the United States. A small group, or even a lone individual, can now easily reach unprecedented numbers of people with increasingly well-tailored and often inaccurate information. Some Internet companies have already begun to respond to hate groups' use of the Internet with acceptable use policies, cooperation with law enforcement, and encouragement of the use of filtering devices to screen offensive material. This type of self-regulation of the industry is one excellent way to stem hate groups' messages and influence.

e. Community, Public Interest, and Society Groups

Finally, the Panel believes it is important to recognize and encourage the efforts that private organizations and community groups have made in the fight against hate groups. Private organizations provide extensive educational, financial, and other resources integral to stemming

hate groups' influence in California. Private organizations are also particularly well-positioned to focus communities on the problems in California and to rally public support for any solutions to those problems. These organizations, however, are even more effective when they work together and partner with law enforcement and education. Expansion of existing partnerships and the forging of new ones would therefore greatly benefit California.

4. The Panel's Recommendations

The Panel, in this Report, makes recommendations that reflect its survey of these five focus areas. All of the recommendations were carefully drafted with an eye toward constitutional limitations and implications. The following is a brief summary of the recommendations that are fully discussed later in the Report. The Panel proposes:

Legislative Recommendations

- A revised definition of hate crimes, and new definitions of hate groups and hate incidents.
- Revision of current anti-paramilitary laws to make violation of those laws a felony.
- Amendment of hate crimes and penalty enhancement statutes so more victims are protected by the laws.
- Adoption of legislation that would simplify the removal of false liens.
- Extension of the statute of limitations in actions brought under the Ralph Act.

Educational Recommendations

- Provide more effective ways to teach students about cultural and ethnic diversity, tolerance, and constructive ways to resolve conflicts.
 - Funding and Curriculum Proposals: (a) Amend Education Code Section 233 to Remove the Impediments to the Implementation of its Provisions; (b) Amend Education Code Section 32228 to Broaden its Scope to Include Implementation of a Human Relations Curriculum.
- Promote better training for teachers in the areas of cultural and ethnic diversity, tolerance, and hate-motivated behavior.
 - Teacher Training: (a) Amend Education Code Section 44259 to add a course in human relations as a prerequisite for obtaining teaching credentials; (b) Amend the requirements for the Cross-cultural, Language, and Academic Development ("CLAD") Certificate to enhance human relations training and thus strengthen the Culture and Cultural Diversity component.

Law Enforcement

- Creation of statewide protocols and definitions relating to hate groups and hate-motivated behavior to facilitate communication among various law enforcement agencies.
- Additional training for law enforcement in the areas of hate groups and hate-motivated behavior.
- Creation of a statewide database to track bias-motivated criminal activity.
- Designation of hate crimes management teams to facilitate “vertical prosecution” and to improve victim assistance.

The Internet

- Encouraging the Internet industry to undertake dissemination of information about filtering products, “family friendly” sites, and online safety to consumers.
- Encouraging the Internet industry to undertake self-regulation.

General Policy Recommendations

- Creation of hate violence prevention networks to encourage government agencies, communities, private interest groups, and others to work together to minimize the influence of hate groups in California.
- Encouraging parents and others to teach tolerance at home and in community settings.

5. Conclusion

In many respects, California leads the nation in the struggle against hate groups. Still more can be done, and must be done, to meet this important challenge – a challenge that has fundamental implications about the way we live together as an increasingly heterogeneous society. California laws must demonstrate an unbending resolve, but so too must those who are entrusted to enforce them and those who must co-exist under them. As with any complex and multi-faceted problem, there is no easy solution. Facing and combating hate require the concentrated concern and effort of many segments of our society. The Panel is pleased to report that California has made progress in this area and hopes that the recommendations it proposes will substantially contribute to those efforts.

II. THE LEGAL CONTEXT

A. INTRODUCTION: CONSTITUTIONAL BOUNDARIES

Hate groups threaten a value at the core of our constitutional democracy: Equal protection for all individuals, regardless of race, gender, religion, sexual orientation or other group characteristics that have been the basis for irrational prejudice, discrimination, and violence. At the same time, hate groups may seek to express political opinions or ideologies, and any regulation of the activities of hate groups must respect the freedoms of speech, press and association protected by the First Amendment to the United States Constitution and its state constitutional analogues. Freedoms of speech and press are expressly protected by the First Amendment; the United States Supreme Court has also long held that “[e]ffective advocacy of both public and private points of view, particularly controversial ones, is undeniably enhanced by group association,” and therefore that “freedom to engage in association for the advancement of beliefs and ideas” is constitutionally protected. *NAACP v. Alabama*, 357 U.S. 449, 460 (1958).

Several major First Amendment debates throughout this century have focused on how far government may go in regulating the activities of organizations that espouse hateful, subversive, or violent ideologies. In the early years of the century, these debates centered on organized anarchists, syndicalists and socialists. In the middle years of the century, they centered on domestic and foreign communism. In the late years of the century, they have centered on hate speech directed at racial, sexual or religious groups.

The Advisory Panel has considered carefully the dangers hate groups pose to individual members of targeted groups, as well as to the social fabric, but it has at the same time taken seriously the need for government to operate within the constitutional boundaries that have been set forth in the course of these earlier controversies. In particular, the Panel has sought in the recommendations that follow to observe four key distinctions based on the governing constitutional case law:

- First, even though government must allow wide latitude for advocacy of ideas and opinions, it remains free to regulate speech that incites an audience to actual violent conduct.

- Second, even though government may not selectively regulate speech by singling out viewpoints hostile to particular social groups, it may selectively regulate violent conduct that is directed at particular social groups.
- Third, even though government may not impose liability based upon an individual's mere association with a group or that group's abstract beliefs, it may use an individual's group associations as evidence where relevant to issues of criminal liability or sentencing.
- Fourth, even though government may not directly punish or penalize the espousal of hateful ideas, it may freely use the power of public education and persuasion to combat and discourage such ideas.

1. Advocacy versus Incitement.

The Court has distinguished between regulation aimed at the content of speech and that aimed at its likely violent effects. “[M]ere advocacy of the use of force or violence does not remove speech from the protection of the First Amendment,” *NAACP v. Claiborne Hardware Co.*, 458 U.S. 886, 927 (1982), but the Supreme Court has interpreted the First Amendment to permit the regulation and punishment of advocacy that is “directed to inciting or producing imminent lawless action and is likely to incite or produce such action.” *Brandenburg v. Ohio*, 395 U.S. 444, 447 (1969).

Brandenburg, the leading modern decision in this area, invalidated the conviction of a Ku Klux Klan leader under a statute criminalizing advocacy of and association in order to advocate violence or terrorism “as a means of accomplishing industrial or political reform.” The defendant had made a speech to his associates preaching white supremacy and making derogatory remarks about African-Americans and Jews. The Court held that the statute unconstitutionally punished “mere advocacy not distinguished from incitement to imminent lawless action.” *Id.* at 449. The Court made clear, however, that a wide range of speech may constitutionally be punished if the government can show that the speaker subjectively had the specific intent or practical certainty that the speech would result in imminent violence and that the speech was objectively likely to do so.

Thus, threats of violence, solicitations to engage in violence, and conspiracies to commit violence plainly may be punished without offense to the First Amendment. The same goes for advocacy that has no explanation or reason for being apart from incitement to violence. A more difficult case arises when expression of ideology and incitement violence are combined in the

same speech or publication. Even in such a case, however, government clearly may regulate or punish the incitement aspect of the speech; appending ideological expression to incitement does not immunize it from otherwise constitutionally permissible regulation.

The scope of *Brandenburg* has yet to be tested and defined by the Supreme Court in relation to speech disseminated over the Internet. Internet dissemination increases the size of the audience for hate speech and the instantaneity of access to it. Whether hate group activity on the Internet may therefore be considered more likely to incite violent acts than more locally directed speech such as that in *Brandenburg* remains undecided. Whatever the technology involved, however, the First Amendment does not bar carefully tailored regulation that aims at preventing the violent effects that speech may bring about.

2. Speech versus Conduct.

Governmental efforts to regulate hate speech and hate crimes in recent years have prompted the Supreme Court to rule that hate speech may not be regulated by statutes that single out certain hate-based points of view, but that hate crimes may be regulated by specific reference to the groups toward whom hate is violently expressed. Accordingly, government has greater latitude to selectively regulate and punish the conduct of hate groups than it does to selectively regulate their speech.

The key cases setting forth this distinction and these principles are *R.A.V. v. City of St. Paul*, 505 U.S. 377 (1992), and *Wisconsin v. Mitchell*, 508 U.S. 476 (1993). In *R.A.V.* the Court unanimously found unconstitutional as a violation of freedom of speech a city law criminalizing the placement of any symbol “which one knows or has reasonable grounds to know arouses anger, alarm or resentment in others on the basis of race, color, creed, religion or gender.” Because the Court found the statute unconstitutional, it dismissed the indictment under that statute of a juvenile defendant for placing a burning cross in the yard of an African-American family – even though such an act might alternatively have been punished under a variety of other criminal laws.

The Court divided in its reasoning, with five justices opining that the law unconstitutionally discriminated against racial or racist speech on the impermissible basis of its subject matter or viewpoint, and four justices arguing that a law selectively regulating violent racist speech would be acceptable but that the law strayed too broadly into the regulation of

merely annoying or offensive speech that is constitutionally protected. The principal opinion, however, explicitly reaffirmed that government remains constitutionally free to regulate hate speech when it aims at the “secondary effects” rather than the content of such speech, *R.A.V.*, 505 U.S. at 389, and when it sweeps up such speech “incidentally within the reach of a statute directed at conduct rather than speech,” *id.* at 389.

By contrast, in *Wisconsin v. Mitchell*, the Court unanimously upheld against First Amendment challenge the enhancement of an aggravated battery sentence on the ground that the defendant had intentionally selected his victim based on the victim’s race. Chief Justice Rehnquist wrote for the Court that, “whereas the ordinance struck down in *R.A.V.* was explicitly directed at expression (i.e., ‘speech’ or ‘messages’), the statute in this case is aimed at conduct unprotected by the First Amendment. Moreover, the Wisconsin statute singles out for enhancement bias-inspired conduct because this conduct is thought to inflict greater individual and societal harm,” such as the provocation of retaliatory crimes, the infliction of emotional distress, and the incitement of community unrest. *Mitchell*, 508 U.S. at 487-88. The outcome in *Wisconsin v. Mitchell* was supported by the attorneys general of all fifty states and the United States Department of Justice, and has been interpreted to validate a wide range of hate crime statutes aimed at violent conduct against members of specifically enumerated groups. Relevant California decisions about such statutes are consistent with United States Supreme Court pronouncements.

3. Guilt by Association versus Guilt through Association.

The Supreme Court has made clear that an individual may not be regulated or punished based merely on the basis of association with or participation in the activities of an ideological organization, even if some other members of that organization espouse or even practice violence. Rather, “[f]or liability to be imposed by reason of association alone, it is necessary to establish that the group itself possessed unlawful goals and that the individual held a specific intent to further those illegal aims.” *NAACP v. Claiborne Hardware Co.*, 458 U.S. 886, 920 (1982).

On the other hand, the Court has also made clear that an individual’s association with an organization such as a gang or hate group may constitutionally be used as evidence of criminal culpability or factors related to sentencing so long as the government clearly demonstrates the specific relevance of the group association to the legal issue in question. For example, in

Dawson v. Delaware, 503 U.S. 159 (1992), the Court invalidated on First Amendment grounds the government's use in a sentencing proceeding of a convicted defendant's membership in a white racist prison gang called the Aryan Brotherhood. Writing for the Court, Chief Justice Rehnquist found that the government had proved only that the Aryan Brotherhood held racist "abstract beliefs," and had failed to show how the defendant's gang membership was relevant to any aggravating circumstance affecting his crime.

But the Chief Justice expressly cautioned that evidence of association with a hate group would be entirely admissible if such relevance to something more than "abstract beliefs" had been shown. "[T]he Constitution does not erect a per se barrier to the admission of evidence concerning one's beliefs and associations at sentencing simply because those beliefs and associations are protected by the First Amendment." *Id.* at 165. For example, the Chief Justice suggested that "associational evidence might serve a legitimate purpose in showing that a defendant represents a future danger to society." *Id.* at 166.

4. Coercion versus Persuasion and Education.

The Constitution limits the government in its coercive capacity to a much greater extent than it limits government in its capacity as educator. The First Amendment protects against the "abridgement" of the speech or association of private persons, but does not bar the government's own vigorous expression of public values. Thus, even if hateful ideas may not be directly punished or otherwise penalized, public educators and officials may use the power of the public curriculum and the public bully pulpit to discourage the promulgation of hateful ideas and to encourage tolerance and equal respect and regard for all groups in our society.

Particularly in the context of public education, government has broad power to teach values and to limit student speech in reasonable furtherance of such pedagogical goals. While students do not shed their constitutional rights at the schoolhouse door, the speech of students in public schools may be limited in order to prevent material disruption of classwork and student life, *Tinker v. Des Moines Indep. Comm. School Dist.*, 393 U.S. 503, 506 (1969), or in order to prevent the "undermin[ing] of the school's basic educational mission," *Bethel School Dist. v. Fraser*, 478 U.S. 675, 688 (1986).

* * *

In sum, then, the Panel has been guided by First Amendment principles to recommend in this Report proposals that aim at the violent conduct and effects of hate groups in our society rather than at their ideological beliefs or the content of their political opinion or advocacy; that enable government to monitor hate group activity for legitimate law enforcement purposes but not for their abstract beliefs; and that, while respecting constitutional limits on government's coercive powers, nonetheless make vigorous use of the government's powers of education and persuasion to prevent and discourage hate and encourage tolerance.

Finally, the Panel is guided not only by the First Amendment but also by the well-established principle that the Due Process Clauses of the Fifth and Fourteenth Amendments bar the government from enacting or enforcing statutes that are excessively vague. Vague laws are those that fail to give ordinary citizens clear warning and fair notice and/or that give insufficient guidance to law enforcement and thus invite selective or arbitrary enforcement.

Vague laws may be struck down even when all are agreed that government is trying to regulate socially destructive behavior, including that of hate groups and gangs. For example, the Supreme Court recently invalidated as unconstitutionally vague Chicago's Gang Congregation Ordinance, which prohibited "criminal street gang members" from loitering in public places – with loitering defined as "to remain in any one place with no apparent purpose" – and criminalized the failure of gang members or their associates promptly to disperse upon a police officer's order. *City of Chicago v. Morales*, 119 S. Ct. 1849 (1999). The Court found that the "no apparent purpose" criterion swept in too much potentially innocent conduct: "It matters not whether the reason that a gang member and his father, for example, might loiter near Wrigley Field is to rob an unsuspecting fan or just to get a glimpse of Sammy Sosa leaving the ballpark." The Panel has sought to avoid any similar lack of precision in its proposal.

B. THE CONSTITUTIONALITY OF THE PANEL'S PROPOSALS

Most of the Panel's proposals in the Recommendations that follow do not raise constitutional concerns because they do not regulate hate group activity in any way that could be considered an abridgment of constitutional rights. Those proposals that do directly limit hate group activity have been carefully tailored to avoid constitutional infirmity.

1. *Proposals that relate to educational initiatives and internal law enforcement procedures* do not raise any constitutional concerns because they do not regulate, punish or

otherwise abridge any activities of hate groups that might be constitutionally protected. *See* Educational Recommendations Section IV.B (curriculum proposals to teach tolerance, human relations training for teaching credential); Law Enforcement Recommendations IV.C (common enforcement protocols, law enforcement training, centralized database, and designation of hate crimes management teams).

2. *Proposals that relate to encouragement of self-regulation by the Internet industry* raise no constitutional concerns because they are persuasive or hortatory, not coercive – i.e., no punitive or other sanction attaches to industry's failure to comply. *See* Internet Recommendations IV.D (encourage industry to facilitate private use of filters, encourage Internet Service Providers to discourage hate speech through contractual arrangements); General Policy Recommendations IV.E (encourage community organizations to create hate violence prevention networks, and recommend that the Governor use the persuasive powers and stature of his office to encourage the teaching of tolerance).

3. *The three legislative recommendations pertaining to the conduct of hate groups* likewise raise no concerns that freedom of speech or association are being abridged because they are targeted not at the content of speech but rather at hate-motivated conduct. *See* Legislative Recommendations IV.A (make violation of state anti-paramilitary laws a felony, amend hate crimes statutes to protect victims who are associated with a targeted group, and ease burdens of invalid liens).

4. *The legislative recommendation that sets forth the Panel's proposed standardized definitions for hate crimes, hate groups and hate incidents* is the only recommendation that might appear at first reading to raise any serious constitutional concern. *See* Legislative Recommendation IV.A.1. While hate crimes are already outlawed under state law and such regulation has been upheld against both federal and state constitutional challenges,² the Panel proposes new definitions of hate groups and hate incidents. In the Panel's judgment, these definitions will provide useful common guidance for law enforcement, education, prison and other government officials in describing hate phenomena in a common language.

² *See* Section IIA, *supra* (discussing federal cases). *See also In re M.S.*, 10 Cal. 4th 698 (1995); *People v. Superior Court (Aishman)*, 10 Cal. 4th 735 (1995).

Whether the Panel's proposed definitions were to raise any constitutional concern would depend entirely upon the context in which they are used. The Panel does not suggest the hate groups as defined in Recommendation IV.A.1, or membership therein, be outlawed or subject to mandatory registration or any other coercive requirement, which might raise possible constitutional concerns. Nor does it suggest that all hate incidents be punished. Rather, the Panel suggests that such common definitions be adopted in order that permissible law enforcement and educational efforts be directed at hate groups and hate incidents within the constitutional boundaries set forth in sections II.A above. Thus, any constitutional objection in the abstract to the proposed definitions of hate groups and hate incidents would be inappropriate, as the Panel is not suggesting that the definitions be employed in such a way as to abridge or infringe liberties of speech or association. Similarly, any challenge on the basis of vagueness would be inappropriate because the Panel is not proposing any coercive use of these definitions that would have a chilling effect upon protected liberties.

III. FACTUAL BACKGROUND

A. EXISTING LEGISLATION

California's laws addressing hate-motivated behavior are among the best in the nation. The legislative scheme includes criminal and civil statutes designed to curb hate crimes in several different ways. One way is through criminal prosecution. The state may prosecute bias-motivated criminal behavior and impose a misdemeanor or felony conviction on the offender. Sentencing penalty enhancements may also be imposed on an individual convicted of a hate crime. On the civil side, the state and private individuals may bring civil actions for damages and injunctive relief when faced with bias-motivated behavior or intimidation. Additionally, California has statutes that restrict paramilitary activity and "paper terrorism," where documents, like false liens, are filed to harass and intimidate public officials and private individuals.

1. Criminal Laws Relating to Hate Crimes

Generally, California's criminal statutes punish hate crimes as misdemeanors, felonies, and through sentencing enhancements. These laws apply where the motivation for the harm is based on the victim's actual or perceived race, religion, ethnicity, sexual orientation, gender, mental and physical disability, or handicap.

a. Felony and Misdemeanor Laws

California has statutes that make it a misdemeanor or felony to injure an individual or property, to intimidate an individual, or to interfere with an individual's rights based on that individual's actual or perceived race, color, religion, ancestry, national origin, sexual orientation, gender, or mental or physical disability.³ For example, it is a misdemeanor to intimidate or interfere with a person's free exercise or enjoyment of any right secured by the Constitution or laws of California or the United States on such a basis.⁴ A misdemeanor conviction would mean up to one year in jail, a fine of not more than \$5,000, or both, plus up to 400 hours of community service.⁵ An individual who has already been convicted of this misdemeanor can be convicted of a felony if he or she, motivated by bias, interferes with another's rights again.⁶

Other behavior punishable as a misdemeanor includes: Inserting without authorization advertisements in newspapers;⁷ stamping, printing, or inserting without authorization any writing in consumer products offered for sale;⁸ or selling without authorization to a minor aerosol containers capable of defacing property.⁹ It is also a misdemeanor, and depending on the circumstances a felony, to: Disturb religious meetings;¹⁰ vandalize a church, synagogue or other building of religious worship or education;¹¹ or terrorize the owner or occupant of real property by the unauthorized placement or display of a sign, symbol or other physical impression on such property.¹²

b. Sentencing Penalty Enhancements

In addition to criminalizing hate-motivated activity, California further deters such actions by providing for sentencing penalty enhancements.¹³ If convicted, a defendant can face sentencing enhancements of one to three years for certain bias-motivated felonies, heightened penalties of two to four years where the felony is committed in concert with another, and an

³ See Cal. Penal Code §§ 186.21, 422, 11410.

⁴ See *id.* § 422(a).

⁵ See *id.* § 422.6.

⁶ See *id.* § 422.7(c).

⁷ See *id.* § 538(c).

⁸ See *id.* § 640.2.

⁹ See *id.* § 594.1.

¹⁰ See *id.* § 11412.

¹¹ See *id.* § 594.3.

¹² See *id.* § 11411.

¹³ See, e.g. *id.* §§ 190, 422, 427, 1170.

additional year if the defendant has a prior hate crime conviction. An aggravating factor that may be considered, if applicable, is that the felony was committed because of the victim's actual or perceived class membership. California also makes the death penalty available for murder committed due to the victim's actual or perceived race, color, religion, nationality, or national origin. And recently, California amended its laws to allow for the sentence of life without parole where a murder was committed due to the victim's actual or perceived gender, sexual orientation or disability.

2. Civil Statutes

Perpetrators of hate activity risk civil penalties as well. The primary civil statutes used to address bias-motivated activity in California are the Ralph Act¹⁴ and the Bane Act.¹⁵ The Ralph Act provides all persons with the civil right to be free from violence or threat of violence against their person or property because of their race, color, religion, ancestry, national origin, political affiliation, sex, sexual orientation, age or disability or position in a labor dispute.¹⁶ The Bane Act, on the other hand, provides protection against the actual or attempted interference with constitutionally and certain statutorily protected rights by way of threat, intimidation, or coercion—regardless of whether the behavior was hate-motivated. Such protected rights include: Due process, equal protection, privacy, freedom from bodily harm or personal insult, from defamation and from injury to personal relations and freedom of association, among others. Together, these statutes strive to protect the integrity of one's person, property, and constitutional and statutory rights.

Various public and private individuals, including the attorney general, district, city and private attorneys, enforce these statutes. The Ralph Act is also enforced by the Department of Fair Employment and Housing, which prosecutes housing and employment related violations of the Act before the Fair Employment and Housing Commission.

¹⁴ Cal. Civil. Code §§ 51.7, 52.

¹⁵ *Id.* § 52.1.

¹⁶ See *id.* § 51.7(a) (stating that these particular bases of discrimination are intended to be illustrative, rather than restrictive).

3. Paramilitary Statutes

Paramilitary activity, a specific type of activity directed against state and federal government, is another area addressed in California's statutory scheme. At present, the California Department of Justice estimates that there are more than sixty paramilitary-type organizations, including militia, "patriot" and anti-government groups, in California. Paramilitary groups generally hate the state and federal governments because they believe the governments are attempting to take away their constitutional rights. While not all participants espouse bias-related principles, some members of these organizations are known to have current or prior membership in white supremacist groups and maintain a belief in white superiority.¹⁷

California's statutory approach to paramilitary activity is twofold.¹⁸ First, it regulates the activity of paramilitary groups by making it a misdemeanor for groups to assemble as a paramilitary organization for purposes of practicing with weapons. The penalty for doing so is imprisonment in the county jail for up to a year, a fine of not more than \$1,000, or both. Second, where a defendant, intending to cause or further a civil disorder, engages in proscribed teaching and demonstration activities related to firearms and explosives,¹⁹ the defendant is subject to the same misdemeanor penalties. The difficulty of proving motive and intent under this statute to obtain a misdemeanor conviction, however, means that few defendants are currently prosecuted under this statute.

4. Paper Terrorism

Many hate groups use various techniques to harass their victims, including "paper terrorism." Paper terrorism involves filing legal or pseudo-legal documents, like liens, to obstruct legal and financial systems. Victims of paper terrorism can spend countless hours and large sums trying to expunge false information from the public record. Groups file these

¹⁷ The California Department of Justice has observed that, contrary to widely held belief, paramilitary organizations do not fall within the same hate-oriented category as white supremacist groups and white gangs because they generally do not engage in or espouse hate-related doctrine as part of their organizational objectives. Other experts, including those in the academic community, believe that there are close ties with hate groups and a strong underlying current of bias in paramilitary-type organizations.

¹⁸ See Cal. Penal Code § 11460.

¹⁹ Cal. Pen. Code § 11460(b) penalizes "[a]ny person who teaches or demonstrates to any other person the use, application, or making of any firearm, explosive, or destructive device, or technique . . . knowing or having reason to know or intending that such objects or techniques will be unlawfully employed for use in, or in the furtherance of a civil disorder . . ."

documents to intimidate, harass, and coerce people they perceive as enemies, including public officials and private individuals. California has enacted two statutes that address this kind of activity.²⁰ The statutes make it a misdemeanor to file a claim or lien, knowing it is false, with the intent to harass or dissuade a police officer from carrying out his or her official duties. They also authorize a recorder to give those attempting to file unrecordable documents a form stating the would-be filer has a right to judicial review of the recorder's decision whether to record, and make it a misdemeanor to repeatedly attempt to record a document after the recorder has decided the document is unrecordable. These statutes attempt to give recorders the legal ability to call the police and have the would-be filer arrested if necessary. While California's paper terrorism statutes have proven useful, they can be reinforced to provide further protection to victims of such activity.

B. Law Enforcement

Recently, California's Attorney General released statewide hate crimes statistics for 1998. The Department of Justice received reports from local law enforcement agencies detailing more than 1,800 hate crime offenses that involved 1,985 known suspects and 2,136 victims. About 65% of the events were motivated by the victim's race or ethnicity, and 22% by the victim's sexual orientation. Almost 70% of these offenses involved a violent crime. Law enforcement is on the front lines of the battle against hate groups when the activity of those groups threatens the public's safety and well-being. Laws that proscribe hate activities are necessary tools for fighting hate groups, but they are not enough. Law enforcement, including police officers, prosecutors, and corrections personnel must be in a position to identify and effectively enforce those laws and prevent the manifestation of these acts of hate. To accomplish these important goals, law enforcement must be properly trained, well equipped, and coordinated in their efforts.

1. The Structure Of Law Enforcement

Law enforcement has state and federal components, each of which has jurisdictional limitations. At the state level, the California Department of Justice and the California Criminal Bureau of Investigation operate statewide to enforce laws, create policy and provide additional

²⁰ See Cal. Gov't Code §§ 27203, 27204; Cal. Penal Code § 148.6(b).

resources to local law enforcement. At the local level, there are municipal police departments and county sheriff's offices. On the federal side, the United States Department of Justice, the Federal Bureau of Investigation and the Bureau of Alcohol, Tobacco and Firearms, and other federal agencies address hate group activity affecting their respective areas of responsibility. The areas of federal focus include the federal civil rights laws, federal laws against domestic terrorism and bombing, and violation of other enumerated federal statutes. Until a group's activity reaches a certain level of imminent or ongoing criminal conduct, however, the federal agencies are constrained in their ability to investigate or track the groups.

Each municipal police department and county sheriff's office in California has been responsible for developing its own response to hate group activity. This has resulted in great disparities in the level of response among local agencies and has impeded state-wide coordination of efforts. Some departments, for instance, have created detailed procedural formats for responding to hate crimes, response task forces, and sophisticated computer tracking systems. Others have not even identified a specific officer to contact in their departments with respect to hate crimes, either because of limited resources, a limited amount of hate activity in their jurisdiction, or out of mere reluctance.

One of the challenges California law enforcement faces is getting such a wide number of departments to communicate and coordinate in their response to hate groups and crimes. In that regard, the California Attorney General recently has announced the formation of a Civil Rights Commission on Hate Crimes that will advise his office on: (1) methods to improve hate crime prevention; (2) tolerance and appreciation for diversity; (3) law enforcement training; (4) monitoring and suppression of organized hate groups; and (5) victims services. In addition, the California Attorney General has instituted a Department of Justice Rapid Response Protocol for hate crimes. The premise of the protocol is to ensure that the state is able to deploy resources immediately when a hate crime involving serious injury, death or significant destruction of property occurs. In such an event, the Department has expressed a commitment to try to assist local or federal law enforcement, as the case dictates, with forensic services, intelligence specialists, profilers, criminal and civil rights attorneys, and victim's support staff.

2. The Need for Coordination and Training

Hate groups and the hate crimes they commit present unique challenges to law enforcement. Hate groups may strike anywhere at any time, and are therefore very difficult for a single municipal police department, or even a county's sheriff's office, to combat. At the same time, hate-motivated activities are so devastating to the victims and destructive of communities that law enforcement must provide a swift response when an incident occurs. In trying to respond to the problems hate groups present, police officers and departments have acknowledged that improvement must be made in the areas of communication, information sharing, and adequate training.

a. Communication

There are many different law enforcement bodies involved in and dedicated to fighting hate crimes. Having many groups of law enforcement means more resources and better response; however, the groups must communicate effectively regarding hate groups and hate activity to make a difference. One way for the police to thwart future hate-motivated activity is by tracking the illegal, clandestine activities of organized hate groups. This is very difficult, especially given the recent movement toward "leaderless resistance." It is also very difficult given the somewhat decentralized approach of law enforcement. State and federal law enforcement function independently of each other, and often do not share information that could have helped the other prevent a hate incident. Within the state, while there may be information sharing between the county and a municipal police department located within that county, there is often a lack of communication among municipal departments and among counties. Without communication along these and other lines, it is almost impossible to track the movement of a hate group from one area to the next and to stem their illegal activities.

Already, a number of law enforcement personnel are involved in inter-agency groups that meet as often as once a month to discuss strategies for combating hate crimes and hate groups. The meetings involve representatives from prosecuting agencies, state and local law enforcement agencies, and federal law enforcement agencies. These informal types of gatherings have been beneficial, according to law enforcement, because they allow for establishing points of contact and information-sharing on the activities of hate groups and combating hate crimes. One example of this type of group is found in Los Angeles. The County of Los Angeles Sheriff's

Department (“LASD”), the Los Angeles Police Department (“LAPD”), the federal law enforcement agencies, and state and federal prosecutors in Los Angeles have partnered to share information regarding hate groups and hate crimes activity and to prosecute such activity.

In addition to these types of meetings, better communication among law enforcement departments also requires that officers within each department, and among departments, “speak a common language” in terms of hate groups, hate crimes, and response protocols. Some agencies have already created their own working definitions of and response protocols for hate-motivated activity. If agencies are to cooperate in the future, however, coordination would be simplified by having statewide, standardized definitions and protocols. In addition, law enforcement must coordinate with community groups. The LAPD, for example, established through the Los Angeles Police Commission, a hate crimes task force to revise department procedures and command accountability. The task force consisted of department personnel, county prosecutors and representatives from community-based organizations such as the Asian Pacific Legal Center, the Anti-Defamation League, the Gay and Lesbian Services Center, and the Simon Wiesenthal Center. The task force made several useful recommendations that the LAPD has implemented, and the task force continues to meet with community based groups on a quarterly basis to monitor department response to hate crimes and incidents.

A number of law enforcement agencies have also developed specific protocols or procedures for dealing with hate crimes. The protocols include how to respond to hate crimes and hate group activity, how the data on the incidents will be tracked, and how to proceed in the investigations. In many cases, these procedures also include, where possible, provisions for dealing with the victims of the hate crimes.

b. Information Sharing Through A Common Database

In addition to communication among law enforcement bodies, law enforcement needs access to real-time data regarding hate group activity, including hate crimes and hate incidents. Hate group activity presents a difficult set of problems, similar to that posed by gangs, in that the activity often crosses state boundaries and now exists in the geographically boundless confines of cyberspace. The ability to log on to a central repository for hate-motivated activity will allow officers to be much better informed as to what kind of activity is occurring and will allow them

to identify “hot spots.” It will also help them to predict the next place the activity will occur and will allow them the opportunity to help avoid another flare-up.

All law enforcement agencies currently are required to report bias motivated crimes to the California Department of Justice, and have been doing so since 1994. However, the state database is used primarily in trend analysis and academic research, and by local agencies seeking funding for local programs. What is needed is a database more along the lines of what is provided by the LAPD's Hate Crime Database. The LAPD maintains and updates daily its real-time database on hate crime activity, and includes in its data fields the type of bias motivated activity which occurred and whether any specific symbols or identifying hate markings were involved. The LASD is in the process of developing such a database. Both databases operate on the local level only, however. Both the LAPD and the LASD forward their reports to the state and federal prosecutors in Los Angeles so that the prosecutors can track and keep abreast of current hate group activity. This type of information sharing is valuable and would be made all the more so if done on a state-wide level. This tracking would be enhanced by having a statewide database for all federal and state law enforcement agencies, such as the FBI, LASD and LAPD, where all state and federal crime reports are forwarded to both state and federal prosecutors.

c. Additional Training in Hate Crimes and Hate Groups

In addition to tracking where a hate group has been and predicting where it will strike next, it is sometimes difficult for field officers to determine whether a crime was in fact bias-motivated. An officer must be able to recognize a bias-motivated crime and must be trained to record particular types of information necessary for a successful hate-motivated prosecution, in the event the District Attorney's office brings charges. Additionally, officers must be trained to be cognizant of the extra sensitivity required when dealing with victims of bias-motivated incidents and how to interact with the public in these frequently high profile cases.

All officers in California have received some training in hate crimes and hate groups. New officers are now required to complete this training at the academy level; all in-service officers who were not required to complete hate crimes and hate groups training at the academy level have completed a course as part of their in-service training. This training, however, is a one-time event, and is not ongoing during an officer's career. More standardized training in

recognizing hate crimes, reporting them, and training in tolerance and diversity would be useful, especially where departments are dealing with a significant amount of hate activity in their jurisdictions.

The Commission on Peace Officer Standards and Training (“POST”) is the central clearinghouse and certification body for law enforcement training in California. POST is in the final stages of overhauling its curriculum to provide enhanced resources for training law enforcement statewide regarding hate crimes and hate groups. The new curriculum includes training in methods to identify and investigate hate crimes, the symbols and materials that hate groups use, what resources are available throughout the state, and an overview of California’s hate crimes laws. POST is ideally situated to coordinate statewide law enforcement training regarding hate groups.

3. Corrections Officers

Another facet of hate group recruitment and influence occurs within the state and federal prisons. According to the Panel’s research, prisoners tend to segregate themselves by race, and this racially charged environment creates an ideal recruiting ground for hate groups. Often, those who began their prison sentences without racially motivated hate tendencies end up joining a group for protection and become indoctrinated in its philosophies.

According to the California Department of Corrections (“CDC”), the newest and fastest growing gang in prison is a group called the Nazi Low Riders (“NLR”). The NLR, which originated in the California prison system but has active members outside penitentiary walls, has professed a white supremacist philosophy despite having several non-white members. The NLR members have been involved not only in hate activity, but also in more traditional criminal pursuits such as the drug trade, common activity of other gangs such as the Bloods, Crips, and Mexican Mafia. The Aryan Brotherhood is another prison gang. It was formed in the late 1960s and at one time was very well organized. To this day, it continues to exert some influence and control over other white splinter groups within the prison system. The Aryan Brotherhood also has been known to form alliances with non-white gangs to commit crimes and distribute narcotics.

a. State Corrections

The CDC has recognized the growing number of criminal incidents involving hate crimes and has taken a proactive stance against prison gangs, inmates and parolees who espouse a racist philosophy. Within the prison system, once an individual is identified and confirmed to be a member of a prison gang, that individual may be placed in a secured housing unit, locked-down for twenty-three hours a day, and kept separate from the general prison population. There are currently three of these units: Pelican Bay, Corcoran, and Tehachapi. Tehachapi was opened specifically because of the need for additional space due to the growth of prison gangs like the Mexican Mafia, the Aryan Brotherhood, the Nazi Low Riders, and some skinhead groups.

The CDC has attempted to coordinate its efforts to combat hate group activity by conducting monthly meetings for institutional gang investigators within the department and by taking other concrete steps to address particular problems. For instance, in October, 1999, the CDC implemented the "White Supremacist Project," which was specifically designed to identify inmates and parolees who may be involved in illegal white supremacist activity in California. Once persons are identified as being associated with racist groups, detailed information is to be transmitted to the CDC's Law Enforcement and Investigations Unit, also known as the Special Service Unit ("SSU"). The SSU is a multi-agency task force created to combat criminal activity, and it is comprised of local, state, and federal agents in cooperation with affected district attorney's offices, and federal prosecutors. Regular intelligence meetings are scheduled and the CDC has been trained with other agencies about racist and gang-related activity.

b. Federal Corrections

The Federal Bureau of Prisons' ("FBP") Sacramento Intelligence Unit has national jurisdiction in intelligence matters for the FBP, the United States Marshall's Service, and the Probation and Control Department. It nationally tracks any group that is a threat for committing crimes in the federal prisons. Generally, such groups are referred to as Security Threat Groups. The FBP tracks 1,600 such groups nationwide. Among the Security Threat Groups, a small number of groups are specifically identified as being Disruptive Groups, which are the most violent and dominate other groups within the prisons. Currently, the Disruptive Groups the FBP monitors are: the Aryan Brotherhood, the Black Guerilla Family, the Latin Kings, the Mexican Mafia, Mexikemi, and the Texas Syndicate. Within the Security Threat Groups, the FBP has

designated several different types of groups, such as the White Supremacy Groups (“WSG”). WSGs include the Skinheads, the Aryan Brotherhood, the Aryan Warriors, the KKK, the Aryan Warriors Society, and many more who espouse white supremacist views. The FBP does not specifically categorize or identify any groups as “hate groups,” and does not collect or maintain any statistical data specifically relating to hate crimes or hate groups. Instead, the FBP tracks security threat groups based upon their past, current, or projected propensity to commit crimes in prisons. The Intelligence Unit is in regular contact with California law enforcement personnel, including the CDC, the California Gang Taskforce, and other law enforcement agencies.

The FBP follows special procedures with respect to the Disruptive Groups that operate within federal prisons, including heightened and increased monitoring of prison telephone and mail traffic, as well as notification of local law enforcement personnel when members of Disruptive Groups are released into the jurisdiction of local law enforcement agencies. Generally, it is the FBP’s policy to notify any local law enforcement jurisdiction when the FBP believes that criminal activity within the prison may impact the jurisdiction. Furthermore, within FBP prisons, certain procedures are followed with respect to Security Threat Groups and Disruptive Groups. The members of the six identified Disruptive Groups are imprisoned at high or maximum security prisons unless a special, unique waiver is requested and obtained. The FBP attempts to maintain a balance of the Disruptive Groups within each high and maximum security facility in order to insure that one group does not dominate or monopolize criminal and gang activity within a given prison.

The FBP Intelligence Unit maintains computer database information on the activities of the Security Threat groups, but that database is not made available to California state or local law enforcement personnel. The FBP is studying the possibility of making the information available through an existing computer network in California, but no specific decisions on implementation have been made yet.²¹

²¹ The Panel also believes that corrections officers should be afforded additional training concerning hate groups and hate crimes and more study should be done to this effect. Corrections officers must be prepared to deal with the problem of hate groups given the racial breakdown of most prison gangs. However, while peace officers have POST to certify and coordinate in-service training, there is no fully functioning equivalent for corrections officers. Given this difference, it is difficult to make recommendations regarding specific hate crimes and hate groups training for corrections officers where a corresponding in-service training program is not as well formed or organized. Correctional officers are now required to attend a Correctional Training Facility upon induction, and perhaps that would be the best avenue regarding a specific training program for corrections officers. It is also clear

c. California Youth Authority

The California Youth Authority (“CYA”) is the primary agency in California for underage criminal offenders. The CYA operates eleven institutions, four camps, sixteen parole offices, and two residential treatment facilities throughout California. Their Fiscal year 1998-1999 budget was \$376.3 million, which includes \$5.2 million in local funds. According to figures released in January, 1999, CYA employs 5,404 staff and supervises 7,617 wards (it is at 118.2% capacity) and 5,892 parolees (117.4% capacity). Ninety-six percent of CYA wards are male, their average age is nineteen years, and they are incarcerated for an average length of 26.5 months. Most CYA commitments come from juvenile court, with the remainder originating in criminal court.

When youth offenders enter the CYA system, they submit to initial questioning regarding their involvement in street gangs. This data is collected and recorded. Approximately 60% of CYA wards are gang-affiliated. Hate groups are generally treated as gangs. White youths, including those who join hate groups, represent only about 14% of the population in 1999 (a decline from 30% in 1986), whereas 49% of the CYA population is Hispanic and 28% is African American. Statistically, few youth are placed in CYA custody because they have committed a hate-motivated crime.

CYA facilities house members of White Aryan Resistance, Skinheads, Church of the Creator, Nazi Youth Group, and Nazi Low Riders. CYA classifies these organizations generically as Supreme White Power groups, rather than by breaking them down into separate sub-categories. CYA staff use the same indicia to identify members of these groups as they do to identify street gang members. Tattoos, of a gang symbol or the initials of a hate group for example, and attire, such as Dr. Martens boots with white or red laces, are two examples of what they look for.

CYA officers do not receive any formal training on hate groups and hate crimes. Conferences on organized crime sometimes include training seminars and workshops on hate groups and hate crimes; however, few focus exclusively on hate groups. Additionally, there is no fully functioning POST equivalent for CYA officers to provide in-service training of

that corrections, like peace officers, would benefit from improved communication both within and among departments as well as access to a real-time database that tracked hate-motivated activity.

personnel. CYA exchanges information and participates in joint operations with other law enforcement agencies, but the lack of a uniform definition of “hate groups” makes it difficult for the agencies to communicate and coordinate. Additionally, CYA does not work with community organizations to track hate groups, and while they participate in street gang task forces to share information with police, prosecutors, and parole officers, no hate groups equivalent exists.

4. Prosecutors

Prosecutors are also a critical part of the law enforcement equation. There were a total of 244 hate crime complaints filed by district attorneys and elected officials in 1998; in which 131 convictions were obtained. While the number of complaints filed by prosecutors represents less than one-fifth of all hate crimes reported, it must also be remembered that law enforcement estimates that a great number of hate crimes simply go unreported.

The Panel has observed that the locales best able to coordinate efforts among police, prosecutors and community groups are also best suited to deal with the problems of hate groups. For example, as mentioned above, the LAPD and the LASD both forward all of their hate crime reports to the local District Attorney’s office as well as the United States Attorney’s Office. It was reported to the Panel that in more than one instance, this cooperative effort led to successful prosecutions under federal law that possibly might never even have been brought under state law. Also, the case against a hate crime perpetrator is often only as good as the information provided by the first-responding law enforcement officer. If the first responder does not treat a hate crime as a hate crime, valuable evidentiary information may be lost or overlooked, and along with it the prosecutor’s chance at obtaining a conviction for a bias-motivated crime.

The Panel also noted that “vertical prosecution” is a very useful technique for prosecuting hate crimes. Vertical prosecution means the process whereby a single prosecutor takes a case from start to finish, including dealing with pleadings, trial, sentencing and appeals. Due to the specific and unique nature of prosecuting hate crimes, vertical prosecution appears to enhance not only efficiency, but also to establish better long-term relationships with other law enforcement agencies.

Like other law enforcement personnel, prosecutors could benefit from training in hate crimes and hate groups. Often, prosecution of bias related matters is more difficult because bias intent must be proven, and as such involves particular evidentiary matters not seen in other

prosecutions. Currently, there is no mandatory training in place for prosecutors. The California District Attorneys Association is in the process of developing and implementing a curriculum, however. Once it has been finalized, the training program would be one way for prosecutors to learn more about the particular nuances of such cases.

Finally, it should be noted that coordination is a key component of any undertaking regarding hate groups. Prosecutors, like all other law enforcement personnel benefit from improved communication and cooperation with other law enforcement agencies. Prosecutors should always be included as part of any inter-agency hate groups or hate crimes task force.

C. EDUCATION

1. Introduction

In the course of the Panel's study of hate groups, one theme emerged repeatedly, whether focusing on law enforcement, community groups, academic research, or the Internet. That constant theme was education. Increasingly, hate groups direct their message to school aged youth, and the influence of hate groups on school campuses is growing. Whereas twenty years ago high school students would almost never have come in contact with anyone belonging to a hate group, today, by the time they leave high school, most students will have had direct contact with a hate group, or know someone who had such contact. Indeed, because of the Internet, it is not uncommon for young hate crime offenders to be familiar with the rhetoric and symbols of hate groups with which they personally have never had any contact. Groups that once had a difficult time reaching likely recruits now use the Internet for extensive outreach.

No serious effort to stem the influence of hate groups in California can be made without an educational component designed to teach an appreciation of diversity, tolerance, and respect. While it is the Panel's hope that the foundations for tolerance will be established in the home, the Panel also recognizes that children spend a significant amount of time in school, where they form many of their basic social skills. The citizens of California must therefore support an education system that fosters respect and appreciation for the diversity of California's population, and that cultivates tolerance and peaceful conflict resolution. This is needed to protect our children while they are in school and to protect society at large by preparing children to become tolerant adults in an increasingly heterogeneous state.

There is no single answer to the problems of hate groups and hate-related activity, as hate related activity takes place on a continuum, ranging from hard-core group membership at one extreme to individual spontaneous incidents at another. Intervention and prevention therefore require an understanding of the continuum to determine where an individual falls and a “toolbox” of resources and information that allows parents, teachers, administrators and others to instruct young people about tolerance, and to empower them to combat hate. This “toolbox” must be supplied at an early age to prevent children from developing hate beliefs, because once children reach middle school and high school ages, their beliefs may largely be set and difficult to change. Therefore, with older children, there must be added focus on conflict management and mediation.

2. The Response to the Influence of Hate in Our Schools Today

While there are several components of the existing educational structure that address the issues of tolerance, respect for diversity, and healthy human relations, the response of schools in California to the problem of hate group activity or to hate incidents on their campuses seems as varied as the number of schools in the state. Many of those the Panel contacted expressed concern that, overall, teachers and schools were not responding adequately to the influence of hate groups or to the incidents of hate on their campuses. The reasons for this deficiency range from lack of understanding of the problem to a conscious decision to ignore the signs of hate group activity for fear of damaging their school's reputation in the community.

This rather harsh view, however, must be balanced against the very good work being done at some of the schools. For example, North High School in Torrance – a school with a widely diverse student population – has instituted a wide ranging and comprehensive program that infuses tolerance and appreciation for diversity into the daily life of the school. Administrators, teachers and students report that their program has been a success. The school has documented that the number of violent incidents on campus has decreased since they instituted their program. Importantly, North High School has managed to implement their multifaceted program by using the school's general fund, partnering with businesses in the community, obtaining state and federal grants, and through student fundraising activity.

The Panel believes that the state should support the efforts of schools such as North High and encourage other schools to adopt similar programs tailored to fit the needs of their individual campuses.

a. [Teacher Training](#)

The California Commission on Teacher Credentialing (“CTC”) oversees teacher credentialing. This agency is responsible for establishing credential requirements that authorize public school teaching and service, standards for programs that prepare public school personnel, standards for subject matter programs, assessments of skills and knowledge, and the enforcement of professional practices standards.

During the first five years of their careers, teachers are required to continue their education while in service to obtain a permanent or “clear” professional certificate. Thereafter, teachers who came in service in the mid-1980’s or later must renew their credential every five years by completing 150 hours of continuing education. Many teachers devote some of this time to further training in teaching tolerance and healthy human relations, but this is not required.

Teachers are required to either have a “Single Subject” credential, which authorizes the teaching of a subject area in junior high or high school, or a “Multiple Subjects” credential, which authorizes the teaching of grades K-6. Teachers may also have a certificate in Cross-cultural, Language and Academic Development (“CLAD”) and/or Bilingual, Cross-cultural, Language and Academic Development (“BCLAD”), designed to qualify teachers to work in culturally and linguistically diverse classrooms. For a more thorough discussion of the standards that CTC has established for teacher preparation in the various subject areas, see the Appendix at page A-18.

b. [Curricular Mandates](#)

(1) [The California Education Code](#)

Several existing sections of the California Education Code are relevant to addressing the presence of hate ideologies on campus. First and foremost, Section 201 of the Education Code makes plain the State’s commitment to schools free of the ideology of hate by “promoting tolerance and sensitivity in public schools and in society as a means of responding to potential harassment and hate violence.” The California Legislature has declared:

There is an urgent need to prevent and respond to acts of hate violence and bias-related incidents that are occurring at an increasing rate in California's public schools.

The Legislature has further declared that all pupils have a right to an education that is "free from discrimination and harassment," and "California's public schools have an affirmative obligation to combat racism, sexism, and other forms of bias, and a responsibility to provide equal educational opportunity."

To combat bias, California mandates that social science teaching in grades 7-12 include attention to "human rights issues, with particular attention to the study of the inhumanity of genocide, slavery, and the Holocaust, and contemporary issues."²² Teachers reported that while the standard curriculum can and does deal with such subjects, the precise implementation of such mandates tends to be somewhat haphazard, varying from school to school and sometimes teacher to teacher.

California also enacted the Hate Violence Prevention Act, which requires the State Board of Education to revise and develop the state guidelines and curricula to include human relations education to foster "an appreciation of people of different ethnicities."²³ The State Board also must establish guidelines to train teachers and administrators "to prevent and respond to acts of hate violence occurring on their school campuses." No funding for the Act was provided, however, and implementation of the Act was only required if private funding could be found. Administrators within the State Board told the Panel that there was only a limited degree of implementation of this mandate, primarily in the form of changes to a package of guideline materials provided to schools on how to handle situations of hate-related violence. Those materials are currently out-of-print, undergoing revision and editing to reflect changes in the Education Code and related regulations.

Finally, the California Legislature mandated the establishment of the Bill Bradley Human Relations Pilot Project, in which the Superintendent of Public Instruction was to consult with non-profit human relations organizations to recommend a course curriculum on human relations to the State Board of Education, and then select three school districts from around the State as

²² Cal. Educ. Code § 51220.

²³ Cal. Educ. Code § 233.

pilot programs.²⁴ A project report was prepared and placed on file with the State Board of Education. Though the results generally were assessed as positive, no specific program changes resulted from the pilot project.

(2) Character Education

At the lower grades, the California educational establishment is focusing more attention on what has been termed “character education.” This involves three “strands.” One strand focuses on character education per se, a second focuses on moral education from a cognitive developmental perspective, and a third focuses on civic education. It was suggested to the Panel that the character education approach may contribute, or be made to contribute, to an improvement in the campus climate in terms of tolerance, respect for diversity, and conflict management.

Officials at schools that have implemented a character education program believe that improvements in student achievement and social success indicate that character education is having a positive impact in schools. Many report fewer fights on the playground, and more involvement of the students in solving disagreements. The response from staff, parents, students and the community is reported to be very positive.

c. Conflict Resolution

In August 1999, the State Auditor submitted to Governor Davis its report entitled *School Safety: Conflict Resolution Programs Help Prepare Schools for Conflicts*. The Auditor surveyed California public schools and found that while more than 75% of California’s public schools have a conflict resolution program, few schools have what the Auditor terms an “extensive” program that educates the entire school community about strategies for peaceful resolution of conflicts. While many schools use general funds to pay for their programs, there are other sources of funding, including various state and federal grants and programs.²⁵

The Auditor concluded there are three essential elements to effective conflict resolution programs: (1) Incorporating conflict resolution principles into the students’ regular academic curriculum; (2) training students to act as peer mediators; and (3) education of all members of the

²⁴ Cal. Educ. Code §§ 280 *et seq.*

²⁵ For a more complete discussion of available grants and programs, see Appendix at A-19.

school community—including parents—about methods of alleviating conflicts. The Auditor identified the “best practices” for each of the three components of comprehensive conflict resolution programs. Peer mediation ought to involve a diverse group of mediators, timely mediations, evaluation of mediators, strong awareness of mediation within the school community, and a link to the disciplinary process—that is, providing an educational alternative to suspension or expulsion. The educational and curricular components should customize the conflict resolution curriculum to the needs of the particular school campus, and should include outreach to all students. Finally, educating the school community requires offering training to all interested members of the community, and arranging partnerships with local business and community groups.

Consistent with the Auditor’s report, many teachers and school administrators told the Panel that an important educational priority should be encouraging comprehensive conflict resolution programs, starting at the elementary schools. Where such programs exist, there is broad agreement that schools see a definite reduction in the number and intensity of severe and violent conflicts, particularly where a district has instituted some degree of conflict resolution training for students at elementary schools. While acknowledging the degree of support for such programs varies among different principals and faculty members, teachers at schools where conflict resolution programs are in place credit them for instilling in the students an almost instinctive reflex toward de-escalation and diffusion of tensions where fights formerly would have been common.

Several sources exist to assist schools in devising and implementing a conflict resolution program tailored to a school’s individual needs. These sources include: *Conflict Resolution Education: A Guide to Implementing Programs in Schools, Youth-Service Organizations and Community and Juvenile Setting*, published by the United States Departments of Justice and Education; and *School Based Conflict Resolution Programs: A California Resource Guide*, published by the Sacramento County Office of Education.

d. Liaisons Between Law Enforcement and Schools

Throughout the interviews conducted in preparation for this Report, it was clear that a partnership between schools and law enforcement agencies is essential to addressing matters of hate motivated violence on campus. California already has a safety-oriented official partnership established, but no such arrangement focuses on hate issues specifically.

Since 1983, each State Superintendent of Public Instruction and Attorney General has unified their efforts and resources through the School/Law Enforcement Partnership Program, promoting strategies designed to enhance the safety of our schools and ensure the safety of students. The School/Law Enforcement Partnership highlights programs such as conflict resolution and youth mediation, building youth resiliency, teen drug abuse prevention, and gang violence reduction through its annual conference, while providing technical assistance on school safety through the services of its Cadre members – a group of 100 professionals from law enforcement, education and other youth-serving agencies. The Partnership also sponsors regional training of safe school planning processes and community mobilization, the result being a locally developed strategic approach for safer schools and communities. The Partnership also sponsors \$5,000 mini-grants to help local schools implement safe school and youth violence prevention projects and strategies. However, more coordination and possibly funding of these efforts is required.

D. THE INTERNET

The Internet is one of the great technological revolutions of the millennium. It has enormous capabilities and provides enhanced communication and more expedient commerce. In some ways, it is changing political discourse by providing a more purely democratic medium, and is even able to reach into formerly autocratic regimes with democratizing messages. Unfortunately, the Internet has also made it possible for hate groups to reach an enormous and growing audience. A small group, even a lone individual, can now easily reach unprecedented numbers of people with increasingly well-tailored and often inaccurate information.

Many people, including young students, do not appreciate the need to question the accuracy of the information that flashes on their computer screen. For example, a student wrote a report on the Holocaust, the research for which he had done on the Internet. His paper was

well written and he could not understand why he received an “F.” The reason was simple. His thesis was that the Holocaust never occurred. The student’s Internet research had led him to a white supremacist website that denied the occurrence of the Holocaust. Such websites are not uncommon. One such site styles itself as presenting a scientific study, complete with aerial photographs and computer renditions of concentration camps. The home page proclaims authoritatively that its “photo-interpretation and map-accuracy are *accepted to be correct* as no other websites have hand-drawn maps that contradict [the site’s] maps!” (emphasis added).

The abuses that are made of the Internet are both real and disturbing. The Internet industry appears generally to agree that the industry has the ability to voluntarily police itself; however, the industry is far from united in its view on how such self-policing should be done, or indeed if it should be done at all. This discord contributes to the difficulty of finding a solution to the problem of hate groups online and likely will increase the pressure on legislators and regulators to intervene directly as the use and abuse of the Internet increases.

1. Hate Groups Online: How Do Hate Groups Use the Internet?

The Internet provides a seemingly unlimited, and potentially anonymous, forum for hate groups and other hate-minded individuals to promote their beliefs and organize meetings with followers from around the globe. The Internet is not only a medium of mass distribution, but also is a medium of mass association. Anyone with an interest and Internet access, even those with possibly warped and dangerous views, can find others with like minds in seconds. Discovering other, like-minded individuals can be harmful to the extent that it validates extreme views.

The motives and intentions of hate groups have not changed simply because they are now on the web. What has changed is that these groups have found a new communication medium, one that makes it is easier to appear credible, easier to initiate contact, and easier to disseminate information. By using the Internet, hate groups and paramilitary groups have become more accessible to society, and in turn they have found a better vehicle for their message. The soaring use of the Internet by such groups is evidence of this fact. The United States Senate Judiciary Committee recently heard testimony on the problem of hate on the Internet. At the hearing, the Southern Poverty Law Center testified that they have individually tracked sites for 254 hate

groups online, up 50% from one year ago. The Anti-Defamation League estimated the presence of 500-600 hate groups on the web this June.

Hate groups use the Internet in a variety of ways. While many hate-group web sites reflect the conventional approach and content of hate groups, other sites range in appearance from innocent personal home pages to sites designed to appear as authoritative academic or official sources of information, or even as fun-filled game sites aimed at children. Yet other sites provide recipes for making bombs and instruction in military and terrorist techniques. Electronic mailing lists and other bulletin board-type services also provide an easy outlet for groups seeking to spread information, recruit sympathizers, and harass target groups and individuals. The Simon Wiesenthal Center monitors hate-related web sites on the Internet and has organized such sites into the following categories:

- Influencing Youth
- Hate Music Online
- The Millennium Movements
- Religious Extremism & Separatism
- Holocaust Denial & Historical "Revisionism"
- International
- Hate Groups & Promotion of Extremism
- Militia/Patriot
- Bombmaking and Mayhem

Tracing the individuals and groups involved in disseminating hateful messages on the Internet is becoming more difficult due to improved encryption technology. Indeed, a company recently announced that it will offer almost untraceable Internet access. The company will, for a fee, provide a subscriber with a handful of pseudonyms. Each time the subscriber uses the service, his access is routed through a 128-bit encryption program that scrambles the signal and makes it untraceable to the subscriber. Since no records are kept, even law enforcement reportedly agrees that it would take resources akin to those available to the National Security Agency to break the encryption and discover the subscriber's identity.

2. Industry Response: How Do Internet Service Providers and Other Internet-Related Businesses Address Hate Groups Online?

Several Internet companies have begun to respond in various ways to the growing use of the Internet by hate groups, including the incorporation of “acceptable use policies” in their service contracts, cooperation with law enforcement, and encouragement of the use of filtering devices to screen offensive material.

a. *Acceptable Use Policies.* Most major Internet Service Providers (“ISPs”) incorporate acceptable use policies in their service contracts. For example, Microsoft’s Internet service agreements provide the following:

- MSN Internet Access: Users may not publish, distribute or disseminate any inappropriate, profane, defamatory, infringing, obscene, indecent or unlawful material or information.
- MSN Web Committees Code of Conduct: Users should refrain from all expressions of bigotry, racism, hatred, or profanity.

Another company, Yahoo!, has a written policy that “users may not upload, post, email or otherwise transmit any content that is unlawful, harmful, threatening, abusive, harassing, tortious, defamatory, vulgar, obscene, libelous, invasive of another’s privacy, hateful, or racially, ethnically, or otherwise objectionable.” If a user violates such a policy, Yahoo! and other providers with similar policies expressly reserve the right to remove the offending content and/or terminate a user’s contract for such conduct. These reserved rights are particularly effective if the provider also maintains an internal policy of immediately investigating reported account violations and taking swift and appropriate action consistent with its contractual rights.²⁶

b. *Cooperation with Law Enforcement.* In addition to their own internal efforts, some providers cooperate with law enforcement when illegal activity, including illicit hate-group activity, has occurred on the Internet. For example, Microsoft maintains a 24-hour-a-day, 7-days-a-week hotline for law enforcement agencies to use if immediate assistance is needed in pursuing online criminals. Microsoft employs four experts in law enforcement and investigative techniques and has a staff of twenty who work together to assist law enforcement

²⁶ This is not to suggest that acceptable use provisions in service contracts are the answer to the concern about hate-group abuse of the Internet. The use of these provisions has its limitations. Extensive Internet networks may be difficult to monitor, and those removed from a network for abusive activities can often gain access again under new names or through an ISP willing to host a site of virtually any character.

agencies to determine how, when and where criminal activity may be occurring on or via Microsoft's online services, and what Microsoft can do to help apprehend the suspects. Microsoft estimates that it responds to approximately 1,000 such requests a year.

c. *Filters.* Another approach that has proven somewhat useful in minimizing the impact of hate group messages, particularly those aimed at the young, are filters. Many Internet companies encourage the use of filtering services to block access to web sites containing hate speech and to prevent receipt of offensive e-mail. Most filtering services are updated regularly by the filter provider, and can also be customized by the computer's owner to block or unblock specific sites or types of sites. The services also may include multiple user profiles and passwords, so an older user can have broader access to the Internet, while restricting the access of children using the same computer. The Anti-Defamation League operates its own service, "Hatefilter," in conjunction with "Cyber Patrol," a service of the Internet Solutions Group of the Learning Company. Other hate speech filters are available under such names as "Net Nanny," "Disk Tracy," "MoM," and "SurfWatch." Such filters can freely be used on private computers. Recently, Gateway began advertising that it will provide filtering software on every computer that it sells.

However, problems exist with filtering in that a filtering device may block access to offensive and legitimate speech alike. For example, a filter designed to block ethnic slurs would block both those instances in which the slurs are used offensively and those instances in which the slurs are used in a dispassionate analysis of the slurs. Also, filters pose the risk that legitimate communications may be impeded, either by being blocked or by burdening the communications medium with cost and speed penalties that would severely hinder growth, thereby raising both economic and First Amendment issues. Finally, filters can be and have been circumvented by clever use of words and/or by manipulation of the filter's algorithms. In the words of one filter provider, it can be a "very fine-grained and fast-moving game, with one side implementing a new blocking tactic and the other coming up with [an] innovative way of avoiding it."

3. Industry Self-Regulation

The Internet is a new and fast-evolving medium that contains an immense wealth of intellectual and commercial promise. With this promise undoubtedly will come opportunity for those seeking to exploit this technology for good as well as for those seeking to exploit it for evil. The Panel considered proposing government legislation and regulation of the Internet to address the societal harm caused by the evil exploitation of the Internet, but believes that such action would require greater study and investigation and may be premature at this time.²⁷

In considering government regulation of web sites, listservs, and bulletin boards, the Panel studied the serious constitutional questions raised by such action. As previously discussed, short of incitement to imminent lawlessness, the First Amendment generally protects the message of such outlets from federal, state, or local regulation.²⁸ The constitutional limits on restricting free speech, as well as the ideal of academic freedom, also constrain the extent to which public universities and public libraries are able or willing to regulate, though they may limit the use of their facilities to activities consistent with their educational, research, and public service mission. In fact, the degree to which public institutions may use filters is still a matter of debate. One federal court has prohibited a public library from requiring the use of filters on all its computers,²⁹ though it may be possible to allow unfiltered access to adults, while limiting the access of children. State regulation also is complicated by the Commerce Clause of the United

²⁷ It should be noted that many groups, including the Simon Wiesenthal Center, the Anti-Defamation League, the Southern Poverty Law Center, HateWatch, and SurfWatch monitor hate on the Internet. Despite the fact that the Internet has made it easier for hate groups to disseminate their messages and materials, the Internet also may be a useful way to identify and monitor hate groups. As one watch group noted, the Internet exposes hate groups for what they are – hateful and harmful. HateWatch warns that restrictions on the use of the Internet by hate groups may be more harmful than helpful, because hate groups are more dangerous when they are subversive.

²⁸ Two California men have been prosecuted under federal law for sending threatening hate messages over computer networks, but in those cases the perpetrators used e-mail to send specific threats to identifiable individuals. Anti-abortion groups have also been ordered to pay damages for posting identifying personal information about doctors, clinic workers, and their families in a manner that was found to constitute an actual threat of physical harm. In addition, anti-abortion groups in this case have been enjoined from operating their web site. The jury verdict and the injunction are currently on appeal. Planned Parenthood of the Columbia/Willamette, Inc. v. American Coalition of Life Activists, 41 F.Supp. 2d 1130 (D.Or. 1988).

²⁹ *Mainstream Loudoun v. Board of Trustees of Loudoun County Library*, 24 F.Supp.2d 552, 562 (E.D.Va. 1998); see also Brigitte L. Nowak, *The First Amendment Implications of Placing Blocking Software on Public Library Computers*, 45 WAYNE LAW REVIEW 327 (1999).

States Constitution, which limits the states' ability to impair interstate and international commercial activity, including the flow of electronic information.³⁰

In short, the State of California, which is the home to many leading Internet companies, should strongly encourage the industry to regulate itself to provide a commercially successful and societally acceptable mode of communication. As the Internet matures, the industry increasingly will come under public pressure to promote socially beneficial behavior, as have all technology mediums that have preceded it. It is hoped that responsible industry leaders and participants will turn their resourceful minds towards private solutions that consider the important concerns of public welfare and safety along with the constitutional concerns of free speech and association.

E. COMMUNITY, PUBLIC INTEREST, AND SOCIETY GROUPS

1. Groups' Activities in California

There are a very large number of private organizations in California that focus on combating hate-motivated behavior. Because there are so many groups, the following list of private organizations is non-exhaustive but illustrates the breadth of groups involved in fighting hate groups: the Simon Wiesenthal Center, the Asian Pacific American Legal Center, the National Conference on Community and Justice, the Legal Advocate Gay and Lesbian Center, the Japanese American Citizens League, the Mexican American Legal Defense and Educational Fund, the Asian Law Caucus, the California Women's Law Center, the National Center for Hate Crime Prevention, the California Victims of Crime Committee, the Southern Poverty Law Center, and the Anti-Defamation League.

These groups and the many others in California that focus on fighting hate groups and minimizing hate groups' effects on our communities are a wonderful resource. They provide educational resources, intelligence and statistics, legal assistance, and a means for communities to begin working together. They should be commended for their efforts thus far, and they should be encouraged to continue their work. Private groups are truly integral to the process of solving the problems hate groups create in society. They are particularly well-positioned to focus

³⁰ *American Library Assn. v. Pataki*, 969 F.Supp. 160, 167 (S.D.N.Y. 1997); see also Kenneth D. Bassinger, "Dormant Commerce Clause Limits on the Regulation of the Internet: The Transportation Analogy, 32 GEORGIA LAW REVIEW 889 (1998).

communities on the problems California faces. They also have the capability to draw the necessary public support for any solutions that may ultimately be implemented.

The following are a few examples of what a some groups have contributed recently.

Again, these examples are by no means an exhaustive list of contributions.

- ***Educational Resources.*** In an effort to increase awareness about the growing menace about the gang, the Anti-Defamation League published *From the Prisons to the Streets: The Nazi Low Riders Emerge in California*. For students ranging in age from elementary to high school, the Southern Poverty Law Center has produced several successful audio-visual educational materials. These audio video programs are provided free of charge upon receipt of a school principal's request.
- ***Intelligence and Statistics.*** Sometimes private organizations are well-suited to track hate motivated activity and provide related statistics. The Anti-Defamation League has a nationwide information sharing system with offices around the country to track hate groups. Another program is through the Human Relations Commission in Los Angeles County. They are plotting how community demographics have been changing to assess potential correlation between such demographic changes and the frequency of hate crime occurrences. Additionally, the Southern Poverty Law Center publishes an Intelligence Report on hate-motivated activity.
- ***Legal Assistance.*** One way that community and special interest groups help to fight hate is by contributing to legal battles, either by providing representation or by providing useful information on hate groups and hate crimes. The Southern Poverty Law Center coordinated recently with a private lawyer who represents hate crime victims pro bono to bring a successful wrongful death lawsuit against the White Aryan Resistance skinhead organization. The Anti-Defamation League helps in court battles by providing information on hate groups to groups that are involved in civil and criminal trials.
- ***Community Efforts.*** A critical step in eradicating hate-motivated activity involves communities working together. Non-governmental organizations can be a catalyst toward this goal. The Intergroup Clearinghouse is a body composed of individuals representing the police department, the Human Relations Commission, and communities targeted by hate crimes. The group functions as an early warning system for groups concerned about the spread of hate, and it provides a forum for the exchange of information on the nature and frequency of hate incidents. It has developed protocols for use by law enforcement and has helped manage tensions between neighboring communities. It focuses on creating effective community responses to hate under the theory that hate crimes cannot flourish where a community and key officials present a unified front against hate-motivated activity.

2. Community and Public Interest Groups Partnering With Law Enforcement and Schools

Even though community and public interest groups can do excellent work alone, they are even more effective when partnered with law enforcement or with schools. These groups, in partnering with law enforcement and with schools, have helped to provide training, resources, and information about hate crimes and hate groups. The following examples of successful partnerships are only a few examples of the wide variety of work being done and the wide involvement of many groups in California. The following examples are not by any means an exhaustive list of partnerships going on in California today.

a. Law Enforcement Partnerships

The work of law enforcement in recognizing hate group activity and punishing hate crimes is critical. Too often, law enforcement is viewed negatively and as “part of the problem.” To the extent that community and public interest organizations can work with law enforcement, communities will be able to begin working together to fight hate-motivated activity.

In working with law enforcement, the Wiesenthal Center and the Anti-Defamation League have maintained a liaison with the LAPD to track hate group Internet sites. The Wiesenthal Center is also actively involved in a continuing dialogue with law enforcement. The Center provides a curriculum and resources for training law enforcement personnel. Some of the training that the Center provides includes recognition of symbols and tattoos, recognition of hate groups, and information about how to respond to those groups. The Center has a National Institute on Hate Crimes program. It is a four-day program for prosecutors and other attorneys, probation officers, parole officers, law enforcement personnel, and victim assistance personnel. Representatives from four to five jurisdictions at a time attend the program each session and bring back a PowerPoint presentation to their jurisdictions to present to the whole department. The Anti-Defamation League has been partnering with law enforcement to provide some types of training, and may soon begin training law enforcement personnel in outlying areas.

Another example of a partnership is the Long Beach Police Department and the National Conference on Community and Justice’s (“NCCJ”) joint venture that provides diversity training programs to the police department. The program, which took two and one half years to finish, included a one-week course every month through which small groups rotated. The NCCJ also

co-facilitates a cultural awareness and diversity program. This program is held monthly and takes place over three days. The first two days are spent in the classroom, and the third is spent at the Museum of Tolerance.

The Hate Crimes Task Force in Los Angeles, which consisted of police department personnel, and representatives from community-based organizations such as the Asian Pacific Legal Center, the Anti-Defamation League, the Gay and Lesbian Services Center, and the Simon Wiesenthal Center, is another example of a successful partnership. As a result of the task force's recommendations, hate crimes incidents became a greater focus for the police department, computer technology has been used to track and respond to clusters of hate crimes, and task force meetings are still held quarterly to continue to monitor the police department's response to hate-motivated activity.

b. Education Partnerships

Many people believe the most important area in the fight against hate groups and hate crimes is education. Fortunately, community and public interest groups have already begun partnering with schools to teach students about diversity and tolerance, and the teachers and administrators about recognizing and responding to hate activity.

For example, the Anti-Defamation League has provided some training for teachers and administrators throughout California on how to recognize and respond to hate group activity. A program called, "Stop the Hate" is one through which the Anti-Defamation League provides diversity education models for classrooms and training for leaders of the training sessions. Through its "World of Difference" program, the Anti-Defamation League offers schools student curriculum on diversity. The Anti-Defamation League has also helped the Los Angeles Unified School District to draft a policy regarding hate crimes and hate groups. The Long Beach Unified School District has a large contract with the NCCJ to provide diversity and cultural tolerance programs for Students.

c. Victim Assistance

Another extremely important area where community groups have been active is in the area of victim assistance. Acts of hatred or violence motivated by prejudice tear at the fabric of communities in a distinct manner, generating fear and concern among victims as well as the

entire community, and have the potential of recurring, escalating and possibly causing counter-violence. Furthermore, victims may be particularly traumatized by hate crimes because a hate motivated attack strikes at one's dignity and very being because such attacks are based on one's often immutable characteristics. Victims may need special services or support, particularly where the act of hatred is violent. While law enforcement can play a role by providing a proper initial response and by keeping a victim informed of a case's progress, it often falls upon community groups to provide support, comfort and adequate related services for victims.

IV. RECOMMENDATIONS AND BRIEF BACKGROUND SECTIONS

A. LEGISLATIVE RECOMMENDATIONS

1. Proposed Legislative Definitions

The following definitions should be adopted as part of the relevant codes of California, including the Education Code, and any relevant code sections should be amended so that they conform with these definitions.

a. Proposed Education Code Section 211.2: Hate Crimes Definition

Hate crime means (1) an act of force or threat of force that willfully injures, intimidates, interferes with, oppresses, or threatens any other person, public agency or private institution in the free exercise or enjoyment of any right or privilege secured to the person, agency or institution by the Constitution or laws of this state or by the Constitution or laws of the United States, or (2) knowingly defacing, damaging, or destroying the real or personal property of any other person, public agency or private institution for the purpose of intimidating or interfering with the free exercise or enjoyment of any right or privilege secured to the other person, agency or institution by the Constitution or laws of this state or by the Constitution or laws of the United States, because of the other person's actual or perceived race, color, religion, ancestry, national origin, disability, gender, or sexual orientation, or because the person, agency or institution is or is perceived to be associated with someone who has or is perceived to have one or more of those characteristics.

b. Proposed Education Code Section 211.2: Hate Groups Definition

Hate Group means any group of two or more people who associate for the primary purpose of promoting animosity, hostility, or malice that is likely to lead to violence against or destruction of property belonging to persons, public agencies or private institutions because of the actual or perceived race, color, religion, ancestry, national origin, disability, gender, or sexual orientation of the person or because the person, agency or institution is identified or associated with or perceived to be associated with a person or group of an identifiable race, color, religion, ancestry, national origin, disability, gender or sexual orientation.

c. Proposed Education Code Section 211.3: Hate Incident Definition

Hate incident or Bias-related incident means an act of animosity, hostility or

malice against a person, public agency or private institution because of the person's actual or perceived race, color, religion, ancestry, national origin, disability, gender or sexual orientation or because the person, agency or institution is associated or perceived to be associated with someone who has or is perceived to have one or more of those characteristics.

Background:

While California has a definition for "hate crime," no statute defines "hate group," or "hate incident." The Panel's proposed "hate crime" definition incorporates the current definition and broadens it by including the word "perceived" as relating to "a person's race, color, religion, [etc.]," and as relating to "the person, agency or institution[']s association with] someone who has or is perceived to have one or more of those characteristics." The definitions for "hate group" and "hate incident" are new and can be added as necessary to statutes that reference hate groups or hate incidents.

These definitions are significant for three main reasons. First, they are the Panel's definitions for "hate crime," "hate group," and "hate incident" as used throughout this Report. Second, if they are incorporated into the legislative framework, they will provide useful guidance in areas of the Education Code that mention "hate incident," but fail to define the term. Third, these definitions will be useful for any future laws regarding hate groups or hate-motivated behavior because the Panel has crafted these definitions with careful attention to any constitutional implications.

2. [Revise State Laws Regarding Paramilitary Groups](#)

Amend California's anti-paramilitary laws, Cal. Penal Code § 11460, to make the violation of those laws a felony.

Background:

California's statute regarding paramilitary organizations prohibits and makes it a misdemeanor to "assemble as a paramilitary organization for purposes of practicing with weapons." Cal. Penal Code § 11460. Because it is often especially difficult for a prosecutor to prove a group's motive and intent under this statute, and because the result of that work is only a misdemeanor conviction, this statute is underutilized. Allowing prosecutors to obtain a felony conviction where this statute has been violated would encourage prosecutors to seek more

convictions of this type. Furthermore, making a violation of this statute a felony would help show the state's dedication to dealing with groups that are comparable to hate groups.

3. Amend Hate Crimes Statutes

Amend legislation to add as a hate crime attacking a person because that person has associated with person(s) of another protected group. The amendments would be to Penal Code Sections 422.6, 422.7, and 422.75.

Section 422.6 would be amended by adding the following clause to the last sentence of 422.6 (a) and (b): “or because the other person associates with or he or she perceives that the other person associates with someone who has one or more of those characteristics.”

Section 422.7 would be amended by adding the following clause to the last sentence of the first paragraph of 422.7: “or because the other person associates with or the defendant perceives that the other person associates with someone who has one or more of those characteristics.”

Section 422.75 would be amended by adding the following clause to 422.75 (a): “or because the other person associates with or he or she perceives that the other person associates with someone who has one or more of those characteristics.”

Background:

These revisions amend current statutes to reflect that a hate crime may lie where an individual is attacked, not because of the individual's own race, religion, or other characteristics, but because of the actual or perceived characteristics of people who are, or are merely perceived to be, friends.

These changes are important because of the social climate in California today. California is a diverse state—racially, ethnically, religiously, and in many other ways. This diversity is often reflected in friendships, dating relationships, and marriages, where individuals of different racial and religious backgrounds come together. Unfortunately, hate groups are known to target and attack individuals based on the characteristics of the people with whom they associate. For this reason, it is important to broaden current protections. An attack on a Caucasian man because he is dating an African-American woman, for example, is no less of a hate crime than an attack on an African-American woman because of her race. The hate crimes statutes should therefore reflect that fact.

4. Adopt Legislation Creating Simple Ways to Trump or Lift Liens at Minimal Cost to the Targeted Individual

Amend the California Civil Code to add legislation that reduces the burden on victims of vexatious liens. A copy of the proposed statutes are set forth in the Appendix at A-8.

Background:

California adopted legislation in 1997 to clarify the authority of county recorders to refuse to record nonconsensual liens in the absence of a court order. It appears that while the new legislation has made it easier for the county recorders to refuse the lien and direct the claimant to judicial proceedings, some individuals are still trying to file invalid common law liens.

If harassing liens are recorded, however, the targeted individual will still bear the expense of getting the lien lifted, and the only recourse for restitution of such expenses is to sue the claimant of the invalid lien (a person who may well be judgment-proof). California may wish to consider procedures that exist in other states whereby (1) public officials can easily obtain a notice and record of invalidity against a nonconsensual common law encumbrance, and (2) any person targeted by an invalid lien may receive an ex parte order to show cause against the lien claimant, with the conventional users of such liens being exempted from this procedure.

Drafts of such provisions, borrowed in part from Oregon Rev. Stat. §§ 205.450 to 205.470, are set forth in the Appendix. The proposed legislation is designated as a new Article Chapter 1, "Liens in General," of Title 14, "Liens," in the California Civil Code.

5. Extend Statute of Limitations Applicable to Action Brought Under The Ralph Act (Cal. Civ. Code § 51.7)

Extend the statute of limitations applicable to actions brought under the Ralph Act from one year to three years.

Background:

The Ralph Act provides that it is a person's civil right to be free of violence or its threat against such person, or his or her property, because of a person's race, color, religion, ancestry, national origin, political affiliation, sex, sexual orientation, age or disability or position in a labor dispute. Section 51.7(a) states that these particular bases of discrimination are intended to be illustrative, rather than restrictive. In addition to actual damages, Section 52(b) provides for an

additional civil penalty of up to \$150,000 to the victim, and also provides for punitive damages, injunctive relief and the ability to recover attorney's fees as determined by the court.

The Ralph Act is enforced by: (1) the Department of Fair Employment and Housing ("DFEH"), which prosecutes and the Fair Employment and Housing Commission, which adjudicates these actions; (2) the attorney general; (3) district and city attorneys; and (4) private civil attorneys. Currently the statute of limitations applicable to actions brought under Civil Code § 51.7 is one year from the act of harm.

The DFEH and others have noted that it is difficult to conduct investigations and initiate proceedings while there is a criminal investigation pending. Law enforcement officials often are hesitant to cooperate with the DFEH and object to the separate taking of witness statements and other discovery in connection with civil suits while the criminal case is pending. This is understandable because the civil discovery process can impede a criminal proceeding. It is thus often difficult for the DFEH to conduct a civil investigation and obtain relevant evidence from officials conducting a criminal investigation until the criminal proceedings are concluded. The current one-year statute of limitations frequently does not permit meritorious civil cases to be prosecuted. Hence, the Panel proposes an additional two years before the action is barred (*i.e.*, a three-year statute of limitations).

6. Amend Penal Code Section 667.5(c) To Add a Violation of 422.7 and 422.75 to the List of "Violent Felonies" for which an Additional Three-Year Prison Term Is Imposed

Amend the Penal Code to provide penalty enhancements for perpetrators of hate violence. The proposed amendment is set forth in the Appendix at A-11.

Background:

Penalty enhancements of one, three or five years are available for certain, particularly heinous crimes, including murder, mayhem, rape, lewd acts on a child, carjacking, and others. These penalty enhancements should also be available for imposition on perpetrators of hate violence.

Making penalty enhancements available for defendants convicted of hate crimes serves two purposes. First, it provides greater deterrence to would-be perpetrators of hate crimes. Second, it shows the state's dedication to addressing the problems hate groups present in California today.

B. EDUCATIONAL RECOMMENDATIONS

1. Funding and Curriculum Proposals

a. Amend Education Code Section 233 to remove the limitations and, in effect, mandate that the Superintendent of Public Instruction and State Board of Education carry out its provisions. The purpose of the amendments is to create state policies and guidelines to assist local authorities in their efforts to implement human relations curriculum.

b. Amend the School Safety and Violence Prevention Act to broaden the scope of the Act so as to include implementation of a human relations curriculum among the activities for which school districts may receive supplemental funds under the Act. The actual text of these statutory proposals is contained in the Appendix at A-12 and A-14.

Background:

The importance of educating children and equipping them with the tools to reject hateful messages they confront was a theme throughout our interviews and in the written submissions to the Panel. The Education Code contains several sections that bear on the issues addressed in this report

First, Section 201, added to the Code in 1994, sets forth the policy of the state to provide children an educational environment free from discriminatory and harassing behavior. The Legislature notes the urgent need to respond to acts of hate violence and bias related incidents and declares its intent that each public school undertake to counter discriminatory incidents on school grounds and to eliminate hostile environments on school grounds.

Section 233, the “Hate Violence Prevention Act,” enacted in 1994, mandates that the Superintendent of Public Instruction and the State Board of Education adopt policies directed toward creating a school environment in all grades that is free from discrimination and hate violence, and to prepare guidelines for the design and implementation of local programs and instructional curricula that promote understanding, awareness, and appreciation of the contributions of people with diverse backgrounds and of harmonious relations in a diverse society. The Act has two crippling provisions, however. First, nothing under it is to be done that results in a state mandate or an increase in costs to a state or local program. Second, it is to be carried out only if private funds are made available. As a result, the Panel has have been told

that very little has been done pursuant to this Act. Some additional guidelines were adopted, but they are now out of print and being revised to make them consistent with other changes in the Education Code.

Section 32228, the School Safety and Violence Prevention Act, was enacted this year and became effective as emergency legislation on July 1. The Act establishes a statewide program administered by the Superintendent of Public Instruction to allocate funds to districts who certify that the funds will be used to provide conflict resolution personnel, providing on-campus communication devices, establishing staff training programs, and establishing cooperative arrangements with law enforcement agencies.

Thus, while there are provisions within the Education Code that directly or indirectly concern hate violence, because of express limitations, the Code does not today adequately address the problem of hate groups, or the problem of hate crime and bias related incidents.

2. Teacher Training

- a. Add a new course in human relations as a prerequisite to obtaining a teacher credential*

Amend Education Code Section 44259 to create “Minimum requirements for preliminary multiple or single subject teaching credentialing by adding a new course in human relations as a prerequisite to obtaining a teacher credential. The statutory proposals are set forth in detail in the Appendix at A-16.

Background:

Many interviewees cited the importance of education to any credible effort to stem the influence of hate groups. But no effort to create an environment that fosters an appreciation of diversity and discourages discriminatory conduct will succeed without a teaching force educated in cultural diversity, management of a diverse classroom and schooled in the techniques of peaceful resolution of conflict. There is concern, however, that many teachers are ill-equipped to identify and deal with bias related conduct. Identification of bias-related conduct is critical to accurate reporting of those incidents, many of which currently go unreported. Based on this information, the Panel recommends that the Education Code be amended to provide that teachers take a human relations course as a prerequisite to receiving a teaching credential.

Although its title only refers to preliminary credentials, Education Code Section 44259 provides the minimum requirements for obtaining a preliminary and a clear multiple or single subject credential. The first recommendation is a proposed amendment to this section, designed to achieve the Panel's goal of a teaching force fully equipped to teach in California's increasingly diverse schools, and to respond appropriately to bias related incidents that occur on campus and in classrooms. The section need only be amended with respect to the preliminary credential, because a prerequisite to a clear credential is possession of a valid preliminary teaching credential or its equivalent

b. Amend the requirements for obtaining a CLAD Certificate

Amend the Requirements for the Cross-cultural, Language, and Academic Development (CLAD) Certificate to strengthen the culture and cultural diversity by adding a new subsection to the definitional portion of Education Code Section 44253.2. The statutory proposals are set forth in detail in the Appendix at A-17.

Background:

Given the importance of tolerance and diversity education and the ability of teachers to identify and deal effectively with bias-motivated conduct, the Panel recommends that the requirements to obtain a CLAD certificate be amended to enhance the requirements in human relations education. Accordingly, and in conformity with the recommendation to Amend Education Code Section 44259, this recommendation seeks to strengthen the CLAD certificate requirements.

c. Require all teachers to obtain a CLAD certificate as amended.

The Commission on Teacher Credentialing ("CTC") should require that all teachers demonstrate the knowledge and skills required for a CLAD certificate. Implementation of this recommendation could be accomplished in conjunction with the restructuring of standards for teacher training and accountability now being conducted by the CTC's SB 2042 Advisory Panel for the Development of Teacher Preparation Standards.

Background:

The third recommendation in teacher training is to make the CLAD certificate mandatory for all teachers. Under current law, teachers who have come in service since the mid-1980s and

who have already obtained a clear credential must complete 150 hours of education and training every five years to renew their credential. The substantive contents of this training will vary district by district. Some districts have imposed CLAD requirements on in service teachers with clear credentials, but there is currently no state-wide mandate to do so.

This lack of a mandate may change as a result of the work of the CTC's SB 2042 Advisory Panel for the Development of Teacher Preparation Standards, which is looking into restructuring standards for Multiple and Single Subject Teaching Credentials. The SB 2042 Advisory Panel is building on the work of the recent SB 1422 Advisory Panel, which recommended incorporating the current knowledge base and field experiences required for CLAD into the credential requirements for all teachers. The CTC forwarded this recommendation to the SB 2042 Panel for it to include in the standards restructuring process. While the SB 2042 Panel is focusing on teacher training pre-service and in the first five years, it may make some changes in what is required of more senior teachers as well. The current expectation is that new standards for teacher preparation will be developed that will look significantly different from the present CTC standards on quality and effectiveness for multiple and single subject credential programs, and will include a new emphasis on teacher "accountability" rather than merely focus on training requirements. The SB 2042 Panel is to report its recommendations to the CTC in December 2000. It is the Panel's recommendation that the CTC require CLAD certificates of all teachers, regardless of years in service.

C. LAW ENFORCEMENT RECOMMENDATIONS

1. Create Common Protocols and Definitions

The State should establish a working panel of law enforcement groups, prosecutors, school officials, community groups, the Department of Fair Employment and Housing, and others to create a statewide guidelines for standardized responses to hate groups and hate crimes. Such guidelines should include, at a minimum: (1) A statement of purpose; (2) the proposed definitions or other standardized definitions that conform with existing state law for hate groups, hate crimes, and hate incidents; (3) responsibilities and duties of first responders, detectives, hate crimes coordinators, commanding officers and victim assistance personnel; (4) record keeping and reporting responsibilities; and (5) training standards.

Background:

The representatives interviewed from law enforcement agencies believe that it would be beneficial to develop statewide guidelines and a standardized definitional system with respect to hate crimes and hate groups. To this end, Governor Davis could establish a separate body to create these guidelines. The panel, if possible, should include representatives of law enforcement and of community groups so that they may work together. Law enforcement representatives are necessary because of their expertise and because they will implement the guidelines. Community groups' participation in the panel will improve community relations with law enforcement and will help make the law enforcement decisions more palatable.

Presently, if a response plan or protocol is in place in a community at all, it is the work of the local law enforcement body. Providing guidelines for how to respond to hate incidents and definitions for hate crimes and hate groups will lay the necessary groundwork for common reporting schemes and better coordination among the various law enforcement agencies. The Los Angeles Police Department ("LAPD") and the Los Angeles Sheriff's Department ("LASD") both have written protocols for hate crimes and response procedures. San Diego has a hate crimes protocol and has made great progress in generating a response procedure.

It may be difficult to create one set of guidelines that will work for all jurisdictions, but different options based on jurisdictional size could be included. Additionally, various law enforcement interviewees stressed the importance of interacting with local law enforcement to establish any set of guidelines.

2. Provide Additional Law Enforcement Training

The State should provide additional training in hate crimes and hate groups to law enforcement, beyond that which is currently required by law.

Background:

Conversations with representatives of law enforcement have indicated that more training in hate crimes and hate groups would be beneficial. In general, the California Commission on Peace Officer Standards and Training ("POST") certifies law enforcement training throughout the state. POST also reimburses police departments when peace officers participate in in-service training. The amount that POST reimburses depends on the specific

program in which an officer is enrolled. For certain training programs, POST will reimburse departments for officers' lost time, including wages and benefits.

POST is currently preparing a revised version of its curriculum, "POST Hate Crimes Guidelines for Law Enforcement Policy and Training." This program will be one of the 6,000 POST certified programs that comprise the in-service training program for police officers. POST undertook an extensive review of new legislation and training needs to develop its curriculum, and is finalizing the materials. Another example of a certified program is the Wiesenthal "Tools for Tolerance Program for Law Enforcement." It is an eight hour course that addresses tolerance broadly, spending between one and two hours on hate crime investigation techniques. Every year, seven to eight thousand officers participate in this program on a voluntary basis. Police officers can count the hours spent in these and other programs toward their bi-annual twenty-four hour training requirement.

Currently, neither the POST hate crimes training program nor the Wiesenthal program are programs for which POST will reimburse for officers' lost time. One way to increase training in hate crimes and hate groups is to provide POST with additional funding to reimburse police departments for officers' lost time when they participate in these types of programs.

Training of probation officers, corrections officers and California Youth Authority personnel in the area of hate groups and hate crimes would also be beneficial. Unfortunately, there does not appear to be a fully functioning POST equivalent that would be able to channel funding for this training. Additional training for hate crimes prosecutors would also be beneficial. Presently, no such training program exists, but one is being developed. *See* FN 21 on page 27.

3. Create and Maintain a Statewide Database of Bias-Motivated Criminal and Pre-Cursor Activity (Law Enforcement)

The State should enhance and maintain a centralized database containing hate crime and hate incident data that become a matter of public record through state and federal law enforcement reports or reports from other government agencies. The data will be provided by

designated public agencies and organizations throughout the State. The database should be accessible, on a restricted basis, to local law enforcement agencies.

Background:

Local Data Insufficient. Hate group activity presents problems uniquely multi-jurisdictional in nature – often across state lines and, via the Internet, without any geographical boundaries at all. Without greater coordination between federal and state agencies, even the best data on hate crimes and trends may not be effective.

Reporting History. Pursuant to California Penal Code §13023, all local law enforcement agencies currently are required to report to the State Department of Justice “all crimes motivated by the victim’s race, nationality, religion, sexual orientation, gender or mental or physical disability.” The State Attorney General’s office has been receiving reports from local law enforcement agencies since 1994 and thus is well positioned to act as a centralized clearinghouse by operating and maintaining the type of database envisioned.

Proposed “Operational” Functionality. Currently, the State Department of Justice’s database and resulting Annual Report is used primarily in trend analysis and academic research, and by local agencies seeking State funding for local programs. While it has proven to be an important analytical resource for government agencies in assessing demographic trends and other data, such as the time of day during which a particular type of hate crime is committed, the current database generally is not utilized in connection with actual investigative work. One law enforcement officer contrasted this “administrative” functionality with the desired “operational” functionality of the proposed database.

Data Fields. Local law enforcement databases such as the LAPD’s Hate Crime Database have proven to be useful operational tools in connection with developing particular investigative methodologies in response to reports of hate crime activity and with suspect profiling. The LAPD’s internally developed Hate Crimes Database is a good starting point.

Sample proposed fields include data on the perpetrator’s vehicle (make, model, color, partial license plate, etc.), distinguishing physical traits, potential hate group affiliation, and the ability to view a photograph (or composite sketch) of the defendant (or suspect). An important component of creating and maintaining a common database are consistent protocols and training for recognition of bias-related factors and evidence of motive. Special data fields may be

developed to track such factors. A section of the database could also be devoted to tracking hate groups' symbols.

Tracking Pre-Cursor Activity. Several interviewees expressed a belief that hate incident data is a “precursor” activity and is one important indicator of potential future bias-motivated criminal activity. The Assistant Bureau Chief in Charge Criminal Justice Statistics Center does not currently maintain this data. Several law enforcement agencies have developed useful precedents for identifying and tracking such data. The Office of the San Diego District Attorney has a Hate Crimes Protocol that refers to “hate incidents” and provides several helpful illustrative examples.

Accessibility. The current Department of Justice database is not directly accessible to local law enforcement personnel. The proposed database should be designed to permit data input locally – for example by secure (password required) Wide Area Network (WAN). It should also permit remote access for investigative search purposes. One useful “accessibility” model might be the guidelines applicable to local law enforcement officials' access to the Department of Motor Vehicles' database.

4. Designate Hate Crimes Management Teams

Encourage each law enforcement agency and office of the district attorney to create a “hate crimes management team” if one is not already in place. Each team should consist of at least one prosecutor dedicated to the prosecution of hate crimes and able to act as a point of contact regarding hate crimes, one or more detectives trained in the investigation and recognition of hate crimes and groups, and one position trained in victim assistance.

Background:

Conversations with law enforcement personnel and prosecuting attorneys indicate that improved coordination within and among government agencies and other groups would facilitate attacking hate groups and prosecuting hate crimes. One way to improve coordination is to designate specific positions in every district to coordinate, track, and prosecute hate related cases. Designating a specific position will allow better tracking of inter-agency cases and will make it more likely that inter-agency relationships will develop over time. This evolution of cooperation and relationship building will likely lead to a more integrated approach among the various agencies.

A number of interviewees stressed that hate crimes cases need to be handled “vertically.” Handling cases vertically means that one prosecutor and one investigator are involved in the case from the investigation stages, through trial, and through any appeal. The nature of hate crimes and the participation of hate groups in those crimes render victims particularly vulnerable. A victim of a hate crime therefore needs to be able to develop a trusting relationship with the prosecutor. The “vertical” approach helps ensure that the victim always has a trusted and readily identifiable individual to contact if there are questions or problems during the case.

Because of the importance of establishing a trusting relationship between the victim and the hate crimes management team, the proposal includes a trained victim advocate as an essential member of the team. In California, the Office of Criminal Justice Planning (“OCJP”) oversees victim and witness assistance programs. In each county, a lead agency is designated to administer the county’s victim and witness assistance program. The Proposal contemplates that the lead agency in each county will designate a position that will serve as the agency’s point-person on hate group and hate crimes matters. This may be implemented by a directive from the OCJP that each lead agency designate such a point-person.

Establishing hate crimes management teams is treated as a recommendation to local law enforcement at this point. Legislation could mandate establishing such teams. Such legislation, however, might require additional funding. For example, political sensitivities could make it difficult to mandate formation of the teams without allocating funds or additional resources for local law enforcement.

D. INTERNET RECOMMENDATIONS

1. Encourage Industry to Facilitate Proper Use of the Internet

Encourage the high tech and Internet industry to facilitate proper use of the Internet through widespread dissemination of information about filtering products, “family-friendly” sites, and online safety. California is home to a significant number of the most successful high tech firms in the country, and its high tech industry should be in a leadership position of not only helping students learn how to operate computers but also apply critical thinking in use of the Internet.

Possible strategies for implementation include: Outfitting computers with labels or pop-up screens to inform consumers about “safe surfing” practices, working with retailers to

highlight responsible use of the Internet, and creating an industry-sponsored non-profit organization to develop and disseminate educational materials in classrooms, libraries, PTA meetings, and other fora.

Background:

In fall 1998, 89% of U.S. public schools had access to the Internet, compared with 35% in 1994. Some experts estimate that in a few years, all public schools in the United States will offer Internet access. By January 1999, 18.6 million children in the United States were online. Fifty-five percent of children ages 11 and older use the Internet for schoolwork. Eighty-four percent of public libraries in urban areas, 77% in suburban areas, and 68% in rural areas now offer Internet access. A recent survey found that 78% of U.S. parents were concerned about the type of content their children can access online. Nevertheless, a majority of children over 12 years old are permitted to surf the Web without supervision.

There are scores of hate sites on the web. The rate of growth of such sites is alarming, from just one site at the time of the Oklahoma City federal building bombing in 1995 to estimates ranging from a few hundred web sites to thousands today. The Internet provides purveyors of hate with an inexpensive and effective way to target and reach millions of individuals. Additionally, this medium allows hate groups to operate anonymously, with electronic code names symbolically replacing the hoods of groups like the Ku Klux Klan. Hate propaganda also reaches users through Usenet newsgroups, electronic mailing lists, and bulletin boards. Some of these sites use misleading domain names to lure unsuspecting browsers. Hate groups promote their sites online and in traditional media such as newspapers and leaflets. Filtering software is available to block access to websites that promote hate. At least one major computer manufacturer and retailer, has begun including filtering software on all of its computers. However, filters are not a panacea. Most experts agree that the key lies in giving youth the skills to approach web content with a critical eye.

Growing concern about children and the Internet has prompted several organizations to begin educating the public on "safe surfing" practices. Resources include *The Parent's Guide to the Information Superhighway: Rules and Tools for Families Online*, a publication that addresses issues such as good sites for children, child safety online. Internet industry leaders and public interest organizations recently launched a site featuring digital resources for families

concerned about online safety. Industry also has partnered with law enforcement to develop programs to train youth to think critically about information posted on the Internet.

2. Encourage All Internet Service Providers to Adopt Terms of Service Language that Prohibits Transmission of Hateful, or Harassing Content

Encourage all Internet Service Providers to insert language in their Terms of Service Agreement prohibiting members from using their service to post or transmit hateful, threatening, or harassing content.

Background:

Most of the major Internet Service Providers (ISPs) have policies in place to prevent members from abusing their online privileges. For example, users of the Yahoo! Internet portal agree not to use the service to “upload, post, email [sic] or otherwise transmit any Content that is unlawful, harmful, threatening, abusive, harassing, tortuous, defamatory, vulgar, obscene, libelous, invasive of another’s privacy, hateful, or racially, ethnically or otherwise objectionable.” Furthermore, Yahoo! explicitly reserves the right “to remove any Content that violates or is otherwise objectionable.” Violation of the letter or spirit of the agreement constitutes grounds for termination of service without notice. Yahoo! has on occasion, when informed of specific content, used such contractual language to terminate service. However, most hate websites post their material through ISPs that either have not inserted such language in their Terms of Service Agreements or do not enforce those agreements.

E. GENERAL POLICY RECOMMENDATIONS

1. Encourage Creation of Hate Violence Prevention Networks

Encourage the creation of local or regional hate violence prevention networks to facilitate communication and promote cooperation between religious institutions, civil rights organizations, youth service agencies, parks and recreation departments, school districts, parent teacher organizations, communities targeted by hate groups, the police department, the California Youth Authority, the Department of Corrections, the district attorney, the city attorney, and victim support groups, among others.

Background:

Many of the interviewees emphasized the importance of maintaining open channels of communication between non-governmental organizations (“NGOs”), law enforcement, school district officials, community leaders, and human relations agencies; however, not all jurisdictions have established a mechanism for facilitating such communication. Some communities have come together in the aftermath of a highly publicized hate crime, but failed to sustain that level of goodwill and cooperation after the crisis has passed. Jurisdictions that have created hate violence prevention networks to foster an ongoing dialogue between public authorities, private citizens, and NGOs are better prepared to respond to hate violence when it occurs. These networks also function as a clearinghouse for resources on hate groups and hate crime. The dialogue they stimulate tends to enhance awareness of the problem among all participants, increasing the likelihood that hate crimes and hate incidents will be reported. Anecdotal evidence suggests that interdisciplinary anti-hate networks can help prevent hate violence by defusing inter-ethnic tensions before they erupt into open conflict.

The California Association of Human Rights Organizations (“CAHRO”) provides financial consultation and technical assistance to organizations interested in forming a hate violence prevention network. A typical CAHRO network features: (1) A sponsoring organization (i.e., a public agency or non-profit organization that contributes staff or funding for the project); (2) a structure for collaborating on issues relating to (a) victim assistance and community response, (b) education and school safety, (c) criminal justice, and (d) at-risk youth intervention. Jurisdictions with networks include: San Diego, Alameda, Santa Barbara, San Francisco, Sacramento, Humboldt, Sonoma County, Orange County, and Los Angeles County.

Los Angeles County is reputed to have the most sophisticated system. Los Angeles network staff provide training to law enforcement and community groups. In addition, they compare police report data with demographic trends to identify factors that make an area conducive to hate crimes and communicate their findings to city planners. Intergroup Clearinghouse in San Francisco offers another example of a successful community-based network. Established in 1979, Intergroup Clearinghouse serves as a forum for information-sharing and an early warning system for groups concerned about the spread of hate. Its committees focus on particular areas of concern, such as public awareness and law enforcement.

For example, its Media Committee organized special briefings for news organizations to increase the sensitivity of their coverage of hate crimes and hate incidents. Currently, Clearinghouse committees are working to resolve inter-ethnic tensions among residents of public housing projects, improve community infrastructures for assisting victims of hate violence, and plan activities for Hate Violence Prevention Week (February 2000).

2. Recommend that the Governor use the Persuasive Powers and Stature of his Office to Promote and Encourage the Teaching of Tolerance at Home and in Community Settings

The Office of the Governor of California enjoys a unique position within the state and has the ability to send messages to a wide range of citizens as well as to influence public opinion. While it may seem like a simple proposal to recommend that the Governor promote and encourage the teaching of tolerance, a strong message from his office will no doubt promote the importance of these concepts. It will encourage parents and community members to teach tolerance, and it will make them more aware of their responsibilities in this regard.

Some specific examples are as follows:

(1) Encourage parents to take an active role in teaching tolerance to their children.

As the primary educators of children, and the people to whom children most often look for guidance especially at an early age, parents must be part of the process of teaching their children tolerance and respect for others.

(2) Encourage the building of partnerships among families, community organizations, schools and law enforcement agencies.

Partnerships can help to pool resources and promote a clear, consistent message that hate-motivated behavior will not be tolerated. Hate crime prevention cannot be accomplished by any one entity alone. People should be encouraged to develop partnerships among schools, parent groups, youth service organizations, criminal justice agencies, victim assistance organizations, businesses, advocacy groups, and religious organizations. These partnerships can help identify resources available to address hate incidents, raise community awareness of the issue, ensure appropriate responses to hate incidents, and ensure that youth receive a consistent message that hate-motivated behavior will not be tolerated.

(3) Encourage community organization to develop hate prevention policies.

The policies should cover responsibilities of organizational staff and members in preventing hate incidents or crimes, the range of sanctions for hate-motivated conduct, and the locations of resources in the organization and community where members can go for help. Policies should reflect broad-based input and strive for a climate where racial, religious, ethnic, gender, disability, and sexual orientation differences and freedom of thought and expression are respected and tolerated. An effective hate prevention policy will promote an organizational climate in which racial, religious, ethnic, gender and other differences, as well as freedom of thought and expression, are respected and appreciated. It should respect diverse viewpoints, freedom of thought, and freedom of expression.

(4) Encourage reporting hate crimes to the police.

Conduct including threats, aggressive physical intimidation, and physical force motivated by racial, religious, ethnic, gender, sexual orientation, and disability bias is specifically prohibited by civil rights and hate crimes laws. Injuries to victims from hate crimes can result in enhanced penalties. Effective law enforcement requires ongoing communication and cooperation among citizens, community groups, school officials and police agencies.

(5) Encourage schools and communities to provide opportunities for integration.

Diverse teams of students or community organizations can undertake community service projects, extracurricular activities, etc., which bring them together. Young people can begin to interact across racial and ethnic lines through community or school-supported organizations and activities. Multi-ethnic teams of students can work together on community service projects, organizing extracurricular events, or completing class projects. High school students can participate in service-learning projects in which they tutor, coach, or otherwise assist younger students from diverse backgrounds.

(6) Conduct a state sponsored or media-partnered campaign using noted luminaries to extol the virtues of diversity.

The media is one of the best outlets available to pass messages to California's youth. Using the media to pass the message that diversity in America is beneficial and America will continue to become more diverse could have a powerful effect. Using popular sports stars, celebrities and other public personalities as spokespeople to spread the importance of inclusivity

and the problems with hate is a way for the state to send a strong message that the effects of hate are deleterious. Options, among others, include public-service messages and free air time.

(7) Encourage the private sector to get involved by promoting or recognizing a merit system for businesses that play leadership roles in fighting xenophobia.

The burden of combating hate is not one the government should shoulder alone. The state should encourage private involvement as well. Corporations and businesses should be recognized for their efforts at combating hate. Potential areas that corporations and businesses can help include: Sponsoring anti-hate programs in communities and schools; sponsoring sports events like tennis tournaments or marathons which raise money to combat hate; and sponsoring advertisements in targeted youth magazines where leaders are profiled.

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APPENDIX

v. BASIC DESCRIPTION OF PANEL'S COMPOSITION AND METHODOLOGY

On August 26, 1999, Governor Gray Davis announced the formation of a blue ribbon panel to conduct a comprehensive study of current and potential laws relating to combating 'hate groups' operating in California. More specifically, the Governor empowered the panel to study and prepare a report with recommendations about the following areas:

- "A review of existing laws relating to possible criminal or civil liability of hate groups, their leaders and members generally and specifically as they relate to incitement of violent acts against ethnic minorities, racial or religious groups, people of a specific gender or sexual orientation, or towards other segments of our population as well as law enforcement officers, the judiciary, civic and government officials.
- "A discussion of the laws or other measures that could be amended, enacted or implemented, within constitutional parameters, to minimize the influence of hate groups and violence incited by the doctrines they espouse.
- "Any other relevant recommendations that they deem appropriate for our consideration in dealing with hate groups and hate group incited violence."

Governor Davis named former Secretary of State, Warren Christopher, and former Governor of California, George Deukmejian, to co-chair the panel, and announced that Dean Kathleen Sullivan of Stanford Law School had accepted an invitation to serve on the panel.

On September 27, 1999, Christopher and Deukmejian met for the first time under the auspices of the Panel, and discussed what the scope of the study would be, who the other members of the Panel would be, and what nature the report would take. On October 6, 1999, the Office of the Governor released a press announcement naming the other members of the panel. In addition to Deukmejian, Christopher and Sullivan, the members on the panel include Carla Arranaga, Morton Friedman, Murray Galinson, Edmonde Haddad, Elwood Lui, and Raymond Marshall.

The entire panel met for the first time on October 13, 1999. The agenda for the first meeting included discussing the origins of the Committee, what the methods of proceeding with their mission would be, the timing issues of the report, the budget for the project, and press relations tactics. Circulated at this same meeting was a memorandum that explored the nature of

hate groups, hate crimes, the particular tactic of ‘paper terrorism’, and the main constitutional constraints on drafting relevant laws.

On October 27, 1999, a letter was sent from Warren Christopher and George Deukmejian to 115 experts in many relevant fields requesting current data and other written materials on hate and paramilitary groups in California, as well as written input on new ideas and new approaches for combating the pernicious activities of such groups, within the constraints of the Constitution. The letter asked that these materials be submitted no later than November 8, 1999. A research staff began conducting interviews, and receiving the materials from the contacted people and organizations shortly thereafter.

The agenda for the meeting on November 4, 1999 of panel members included a report on interviews conducted by the research staff, a report on the responses to the letter of October 27, a discussion of possible initiatives to be recommended by the panel, and scheduled the next meeting to take place on November 29. Circulated at this meeting were a “Memorandum on Statutes Regulating Hate Groups for Governor’s Advisory Panel”, and the “Executive Summary of Interviews for Governor’s Advisory Panel on Hate Groups.” Shortly thereafter, the Research Staff conducted a second round of interviews, and more materials came in response to the letter.

A meeting of the panel on November 29, 1999 followed the agenda of hearing a report from the Research Staff on the further interviews and responses to letters, as well as discussing possible recommendations to the Governor. The materials distributed at the meeting were the “Executive Summary of Interviews – Round 2”, the “Executive Summary of Materials Received,” and a preliminary summary of “Hate Groups Panel Proposals”.

The Panel met again on December 16, 1999 and discussed the format of the final report and its findings in greater detail. In addition, the Panel Members were in regular contact through e-mail, fax transmission, and conference calls.

A. TIME CONTRIBUTED

- Attorneys serving as counsel to the Advisory Panel contributed more than 1,850 hours.
- Paralegals and Support Staff contributed more than 375 hours.

B. LIST OF PEOPLE INTERVIEWED

Academia

Dr. Edward Dunbar, Psychologist, Department of Psychology, University of California Los Angeles

Brian Levin, Assistant Professor, Center on Hate & Extremism, California State University, San Bernardino

Education

Trish Bascom, Supervisor, School Health Programs, San Francisco Unified School District

John Burton, Executive Services Student Support, Fontana Unified School District

Jose Colon, Teacher, Berkeley High School

Phil Drasner, Dean of Students, North High School, Torrance

Petra Galindo, Advisor, Los Angeles Unified School District

Kevin Gogin, Director of Support Services for Sexual Minority Youth, San Francisco Unified School District

Sherry McLaughlin, Coordinator of Child & Family Advocacy Programs, Alameda County Department of Education

Amy Pritchett, Teacher North High School, Torrance

Theresa Saunders, Principal, Berkeley High School

Carol Shakely, Teacher North High School, Torrance

Dr. Suzanne Soohoo, Chapman University School of Education

Bob Tanner, Eighth Grade Teacher, Southgate Middle School

Journalism

Steve Magagnini, Reporter, *The Sacramento Bee*

Law Enforcement - Peace Officers

Mike Acosta, Assistant Bureau Chief in Charge of Criminal Justice Statistics Center, United States Department of Justice

Taw An, Supervisor Statistical Unit, Los Angeles County Sheriff's Department

Daniel Beckwith, Chief of Intelligence, Federal Bureau of Prisons

Wayne Bilowit, Legislative Analyst, Los Angeles Sheriff's Department

John Carrillo, Sergeant, Community Outreach Unit, Chico Police Department

Steve Chaney, Senior Consultant Commission on Peace Officer Standards and Training, (POST)

Tom Ferguson, Deputy, Los Angeles County Sheriff's Department

Ian Grimes, Sergeant, Glendale Police Department

Jerry Jones, Lieutenant, Butte County Sheriff's Department

Billy Howell, Sergeant, Los Angeles County Sheriff's Department

Tom King, Detective, Hate Crimes Coordinator, Los Angeles Police Department

Lee Kramer, Chairman, Sheriff's Task Force, Los Angeles County Sheriff's Department

Richard A. LeGarra, Chief, Baldwin Park Police Department

Josef Levy, Lieutenant, Long Beach Police Department

James Maddock, Special Agent in Charge, Federal Bureau of Investigation Sacramento Division

Robert Malone, Lieutenant, Los Angeles, County Sheriff's Department
Jerry Marynik, Manager, Gangs & Criminal Extremists Intelligence Unit, California Department
Of Justice
Richard E. Odenthal, Captain, Los Angeles, County Sheriff's Department, West Hollywood
Station
Judy O'Neal, Office of Criminal Justice Planning
Malcolm Palmore, Special Agent, Federal Bureau of Investigation, Los Angeles Division
Charles Perrigo, Criminal Intelligence Analyst, Placer County Sheriff's Department
Tom Pigott, Captain, Los Angeles County Sheriff's Department, Lancaster Station
John L. Scott, Captain, Los Angeles County Sheriff's Department, Carson Station
Jerry Stratton, Detective, San Diego Police Department
Mitch Wallace, Detective, San Diego Police Department
Glen Willet, Sr., Special Agent Law Enforcement Investigations Unit, Special Services Unit
California Department of Corrections
Rick Young, Sergeant, Glendale Police Department

Law Enforcement – Prosecutors

Mike Gennaco, Chief of Civil Rights Unit, United States Attorney Central District of California
Marc Greenberg, Assistant United States Attorney, United States Attorney Central District of
California
Hector Jimenez, Deputy District Attorney, County of San Diego
Ken Rosenblatt, Assistant District Attorney, Santa Clara County
Louis Verdugo, Senior Assistant Attorney General, California Attorney General

Governmental Agencies – Federal

Chuck Beardahl, Department of Defense Criminal Investigative Service
Frank Coffman, Department of Defense Inspector General's Office
George Jackson, Special Agent, Office of Special Investigation United States Air Force
Edward Koepfle, Detachment Commander, Office of Special Investigation, McClellan Air Force
Base

Governmental Agencies-State

Marlene Allen, Consultant, California Department of Education
Arun Baheti, Governor's Innovation in Government
Henry Der, Deputy Superintendent, California State Department of Education
Greg Geeting, Acting Executive Director, California State Department of Education
Vivian Linfor, Consultant, Safe Schools and Violence Prevention Office, California Department
of Education
Jim Roland, Acting Chief Probation Officer, Napa County Youth & Adult Probation Agency &
Former Director of California Youth Authority
Reginald Watkins, Deputy Regional Administrator, California Youth Authority, Northern Parole
& Community Corrections Branch

Governmental Agencies-Local

Craig Kramer, Sacramento County Recorder

Rusty Kennedy, Executive Director, Orange County Human Relations Commission
Karen Matthews, Stanislaus County Recorder
Dr. Fredrick Smoller, Member, Orange County Human Relations Commission
Ron Wakabayashi, Exec. Director, Commission on Human Relations, County of Los Angeles

Other Non-Governmental Organizations

Rabbi Abraham Cooper, Simon Wiesenthal Center
Jan Armstrong, Project Director of the Center's Leadership Development in Inter-ethnic Relations (LDIR) Unit, Asian Pacific American Legal Center
Lecia Brooks, National Conference on Community and Justice
Rick Eaton, Researcher, Simon Wiesenthal Center
Kathay Feng, Project Director for the Voting Rights & Anti-Discrimination Unit of the Asian Pacific American Legal Center
Tamar Galatzan, Associate Counsel, Anti-Defamation League, Los Angeles
Rabbi Doug Kahn, Executive Director, Jewish Community Relations Council
Lori Nelson, National Conference on Community and Justice
Jordan Kessler, Anti-Defamation League
Fred Persily, California Association of Human Relations Organization
Sue Stengel, Counsel, Anti-Defamation League, Los Angeles
Mark Weitzman, Simon Wiesenthal Center, New York
Mike Wong, Hate Crime Committee Consultant, Intergroup Clearinghouse

Internet

Eric Aarrestad, N2H2
Barr E. Bauer, Oracle Corporation
Khris Cochran, Content Manager, SurfWatch Software
Susan Getgood, Cyberpatrol
Dan Lintz, MIS 2000
Diane McDade, MSN.COM PR Manager, Microsoft
Brian McLacken, Littlebrother
Donn Parker, SRI Consulting
Howard Schmidt, Microsoft
Steve Turtletaub, Senior Account Manager, GTE

Private Sector

James E. McElroy, Attorney at Law, San Diego

Former Hate Group Member

TJ. Leyden, Former White Aryan Resistance Member (now affiliated with the Simon Wiesenthal Center)

C. PEOPLE WHO RESPONDED TO CO-CHAIRS' LETTER REQUESTING INFORMATION ON HATE GROUPS

Academia

Dr. Edward Dunbar, Psychologist, Department of Psychology, University of California
Los Angeles

Brian Levin, Esq., Assistant Professor, Center on Hate & Extremism, California State University
San Bernardino

Dr. Eric Schockman, PhD., University of Southern California

Karen Umemoto, PhD., Assistant Professor, University of Hawaii at Manoa

Education

Petra Galindo, Licensed Clinical Social Worker/Advisor, Los Angeles Unified School District

Gary K. Hart, Secretary, California Secretary of Education

Sherry McLaughlin, Coordinator of Child & Family Advocacy Programs, Alameda County
Department of Education

Hilda Quiroz, Trainer/Consultant, California Hate Crime Task Force,

Cynthia Rawitch, Professor, Journalism Department California State University, Northridge

Erica Stern, Facing History and Ourselves, Los Angeles Chapter

William J. Ybarra, Administrative Project Director, Los Angeles County Office of Education

Law Enforcement – Peace Officers

Leroy D. Baca, Sheriff, County of Los Angeles

Walter P. Bouman, Sergeant

Steve Chaney, Senior Consultant Commission on Peace Officer Standards and Training, (POST)

Dean Hansell, Commissioner, Board of Police Commissioners, City of Los Angeles

James M. Maddock, Special Agent in Charge, Federal Bureau of Investigation
Sacramento Division

Chet Neal, Littleton, Colorado SWAT Team

Law Enforcement – Prosecutors

Gil Garcetti, District Attorney, County of Los Angeles

Bill Lockyer, Attorney General, State of California

Paul L. Seave, United States Attorney, Department of Justice

Law Enforcement – Prisons

Brian Parry, Assistant Director, Department of Corrections Law Enforcement & Investigations
Unit

Governmental Agencies – Federal

Byron F. Wong, Special Advisor to the Director, United States Department of Justice,
Community Relations Service

Governmental Agencies - State

Dennis W. Hayashi, Director, California Department of Fair Employment & Housing
Robert Presley, Secretary, Youth and Adult Corrections Agency
N. Allen Sawyer, Chief Deputy Director, Office of Criminal Justice Planning

Other Non-Governmental Organizations

Kamila Al-Najjar, Esq., Legal Advocate, Gay & Lesbian Community Services Center
Gwen A. Baldwin, Executive Director, , Gay & Lesbian Community Services Center
Lori A. Fujimoto, National Vice President, Japanese American Citizens League
Elizabeth E. Guillen, Legislative Counsel, Mexican American Legal Defense and Educational Fund
Victor M. Hwang, Staff Attorney, Asian Law Caucus
Abby Leibman, Executive Director, California Women's Law Center
Karen McLaughlin, Sr. Policy Analyst, Center for Violence and Injury Prevention Education Development Center
Daniel D. Sorensen, Chair, California Victims of Crime Committee
American-Arab Anti-Discrimination Committee

Internet

Dick Callahan, EDS
Khris Cochran, Content Manager, SurfWatch Software
Marc Kanter, Solid Oak Software
Diane McDade, MSN.COM PR Manager, Microsoft Corporation
Steve Roche, Regional Manager, CISCO Systems
Alexandra Salmon, Director of Content Services, SurfWatch Software
Jose Solera, Intel Corporation
Steve Turtletaub, Senior Account Manager, GTE Network Services

Private Sector

James E. McElroy, Attorney at Law, San Diego

VI. STATUTORY TEXT FOR RECOMMENDATIONS

A. LEGISLATIVE RECOMMENDATIONS, STATUTORY TEXT

1. Adopt Legislation Creating Simple Ways to Trump or Lift Liens at Minimal Cost to the Targeted Individual.

Proposed Addition to:

**CALIFORNIA CIVIL CODE
DIVISION 3. OBLIGATIONS
PART 4. OBLIGATIONS ARISING FROM PARTICULAR TRANSACTIONS
TITLE 14. LIEN
CHAPTER 1. LIENS IN GENERAL**

ARTICLE 7. INVALID LIENS

§ 2915 Definitions

- (1) “Federal official or employee” has the meaning given the term “employee of the government” in the Federal Tort Claims Act (28 U.S.C. 2671).
- (2) “Filing” includes filing or recording.
- (3) “Invalid lien” means a lien that is not a valid lien.
- (4) “Property” includes, but is not limited to, real and personal property.
- (5) “State or local official or employee” means an appointed or elected official, employee or agent of:
 - (a) A branch of government of this state or a state agency, board, commission or department of a branch of government of this state;
 - (b) A state institution of higher education;
 - (c) A community college or local school district in this state; or
 - (d) A city, county or other political subdivision in this state; or
 - (e) A public corporation in this state.
- (8) “Valid lien” is a lien that:
 - (a) Is a lien authorized by statute;
 - (b) Is a consensual lien recognized under the laws of this state; or
 - (c) Is an equitable, constructive or other lien imposed by a court of competent jurisdiction.

§ 2916 Invalid lien; notice of invalid lien

- (1) No person or county shall accept for filing an invalid lien.
- (2) No person or county shall accept for filing a lien against the property of a federal official or employee or a state or local official or employee based on the performance or nonperformance of the official duties of the official or employee unless accompanied by an order from a court of competent jurisdiction authorizing the filing of the lien.
- (3) A lien against the property of a federal official or employee or a state or local official or employee based on the performance or nonperformance of the official duties of the official or employee that is not accompanied by an order from a court of competent jurisdiction is an invalid lien and has no legal effect.

(4) If an invalid lien against the property of a federal official or employee or against the property of a state or local official or employee is accepted for filing, the filing officer shall accept for filing a notice of invalid lien, specifying the Recording Number of the invalid lien, signed and submitted by:

- (a) The assistant United States attorney representing the federal agency of which the individual is an official or employee;
- (b) The assistant attorney general representing the state official, employee or agent, or the state agency, board, commission, department or state institution of higher education of which the individual is an official, employee or agent; or
- (c) The attorney representing the community college or local school district, political subdivision or public corporation of which the individual is an official, employee or agent.

(6) A copy of the notice of invalid lien filed under this section shall be posted at the county courthouse and mailed by the attorney to the lien claimant at the lien claimant's last-known address, if available.

(7) No person or county shall be liable under this section for accepting for filing an invalid lien or for accepting for filing a notice of invalid lien.

(8) Filing a notice of invalid lien under this section shall clear title to all property that is affected by the lien that is the subject of the notice of invalid lien from all claims, charges or liabilities attached to the property under the lien.

§ 2917 Order to show cause why invalid lien should not be discharged

(1) A person whose property is subject to an invalid lien may petition the superior court of the county in which the person resides or in which the property is located for an order, which may be granted ex parte, directing the lien claimant to appear at a hearing before the court and show cause why the lien should not be stricken and other relief provided by this section should not be granted. The court shall schedule the hearing no earlier than seven days after the date of the order. The scheduled date of the hearing shall allow adequate time for notice of the hearing under subsection (3) of this section.

(2) A petition under this section shall state the grounds upon which relief is requested, shall include the Recording Number of the invalid lien, and shall be supported by the affidavit of the petitioner or the petitioner's attorney setting forth a concise statement of the facts upon which the motion is based.

(3) A copy of the petition and the order directing the lien claimant to appear under this section shall be served upon the lien claimant:

- (a) By service in the manner provided for personal service of summons under _____; or
- (b) By mailing a true copy of the petition, affidavit and order to the encumbrance claimant at the encumbrance claimant's last-known address, both by first class mail and by certified or registered mail, return receipt requested. A notice mailed under this paragraph is effective on the date that the notice is deposited with the United States Postal Service, properly addressed and postage prepaid.

(4) The order to show cause shall clearly state that if the lien claimant fails to appear at the time and place noted, the lien shall be stricken and released and that the lien claimant shall be ordered to pay the costs and reasonable attorney fees incurred by the petitioner at trial and on appeal.

(5) If the court determines that the lien is invalid, the court shall issue an order striking and releasing the lien and may award costs and reasonable attorney fees at trial and on appeal to the petitioner to be paid by the lien claimant. If the court determines that the lien is valid, the court shall issue an order so stating and may award costs and reasonable attorney fees at trial and on appeal to the lien claimant to be paid by the petitioner.

(6) The procedure set forth in this section is not available against a person lawfully conducting business as:

(a) An institution, a savings bank, a national bank, an out-of-state bank, a federal savings bank or an extranational institution, as those terms are defined in _____, or a subsidiary of an entity described in this paragraph;

(b) A savings association or a federal association, as those terms are defined in _____, or a subsidiary of an entity described in this paragraph;

(c) A bank holding company, a savings and loan holding company or a subsidiary of a bank holding company or a savings and loan holding company;

(d) A credit union, as defined in _____, or a federal credit union;

(e) A consumer finance company subject to the provisions of _____;

(f) A mortgage banker or a mortgage broker, as those terms are defined in _____, a mortgage servicing company or any other mortgage company; or

(g) An insurer as defined in _____.

(7) The procedure set forth in this section is not available against:

(a) An officer, agency, department or instrumentality of the Federal Government;

(b) An officer, agency, department or instrumentality of this state; or

(c) An officer, agency, department or instrumentality of a political subdivision or public corporation in this state.

2. Amend Penal Code Section 667.5(c) to Add a Violation of 422.7 and 422.75 to the List of “Violent Felonies” for which an Additional One or Three-Year Prison Term is Imposed

§ 667.5. Prior prison terms; enhancement of prison terms for new offenses

Enhancement of prison terms for new offenses because of prior prison terms shall be imposed as follows:

(a) Where one of the new offenses is one of the violent felonies specified in subdivision (c), in addition and consecutive to any other prison terms therefore, the court shall impose a three-year term for each prior separate prison term served by the defendant where the prior offense was one of the violent felonies specified in subdivision (c). However, no additional term shall be imposed under this subdivision for any prison term served prior to a period of 10 years in which the defendant remained free of both prison custody and the commission of an offense which results in a felony conviction.

(b) Except where subdivision (a) applies, where the new offense is any felony for which a prison sentence is imposed, in addition and consecutive to any other prison terms therefore, the court shall impose a one-year term for each prior separate prison term served for any felony; provided that no additional term shall be imposed under this subdivision for any prison term served prior to a period of five years in which the defendant remained free of both prison custody and the commission of an offense which results in a felony conviction.

(c) For the purpose of this section, “violent felony” means any of the following:

(20) A violation of Section 422.7 or 422.75 where the act is a crime against the person of another.

B. EDUCATIONAL RECOMMENDATIONS, STATUTORY TEXT

1. Amend Education Code Section 233 to Remove the Impediments to the Implementation of its Provisions

EDUCATION CODE SECTION 233

233. (a) At the request of the Superintendent of Public Instruction, the State Board of Education shall do all of the following ~~as long as the board's actions do not result in a state mandate or an increase in costs to a state or local program~~:

(1) Adopt policies directed toward creating a school environment in kindergarten and grades 1 to 12, inclusive, that is free from discriminatory attitudes and practices and acts of hate violence.

(2) Revise, as needed, and in accordance with the State Board of Education's adopted Schedule for Curriculum Framework Development and Adoption of Instructional Materials developed pursuant to Section 60200, the state curriculum frameworks and guidelines and the moral and civic education curricula to include human relations education, with the aim of fostering an appreciation of ~~people of different ethnicities~~ **the diversity of California's population and discouraging the development of discriminatory attitudes and practices.**

(3) Establish guidelines for use in teacher and administrator in-service training programs to promote an appreciation of diversity and to discourage the development of discriminatory attitudes and practices that prevent pupils from achieving their full potential.

(4) Establish guidelines for use in teach and administrator in-service training programs designed to enable teachers and administrators to prevent and respond to acts of hate violence occurring on their school campuses.

(5) Establish guidelines designed to raise the awareness and sensitivity of teachers, administrators, and school employees to potentially prejudicial and discriminatory behavior and to encourage the participation of these groups in these programs.

(6) Develop guidelines relating to the development of nondiscriminatory instructional and counseling methods.

(7) Revise any appropriate guidelines previously adopted by the board to include procedures for preventing and responding to acts of hate violence.

(b) The State Department of Education, in accordance with policies established by the State Board of Education for purposes of this subdivision, shall do all of the following:

(1) Prepare guidelines for the design and implementation of local programs and instructional curricula that promote understanding, awareness, and appreciation of the contributions of people with diverse backgrounds and of harmonious relations in a diverse society.

The guidelines shall include methods of evaluating the programs and curricula and suggested procedures to ensure coordination of the programs and curricula with appropriate local public and private agencies.

(2) Provide grants, from funds appropriated for that purpose, to school districts and county offices of education to develop programs of curricula consistent with the guidelines developed in paragraph (1).

(3) To the extent possible, provide advice and direct services, consistent with the guidelines developed in paragraph (1), to school districts and county offices of education that implement the programs and curricula developed in paragraph (2).

~~(c) <The State Board of Education shall carry out this section only if private funds, in an amount sufficient to pay for related State Department of Education staff activities on behalf of the board, are made available.~~

~~(d)~~> Nothing in this section shall be construed to require the governing board of a school district to offer any ethnic studies or human relations courses in the district.

<~~(e)~~>(d) As used in this section, “hate violence” means any act punishable under Section 422.6, 422.7, or 422.75 of the Penal Code.

2. Amend Education Code Section 32228 to Broaden its Scope to Include Implementation of a Human Relations Curriculum

Amend the “School Safety and Violence Prevention Act” as follows:
EDUCATION CODE §§ 32228-32228.3, 32239.5

§32228 (a) It is the intent of the Legislature that public schools ~~◀serving pupils in grades 8 to 12, inclusive,▶~~ have access to supplemental resources to establish programs and strategies that promote school safety and emphasize violence prevention among children and youth in the public schools.

(b) It is also the intent of the Legislature that public schools have access to supplemental resources (i) to combat bias on the basis of race, color, religion, ancestry, national origin, disability, gender, or sexual orientation, and (ii) to prevent and respond to acts of hate violence and bias related incidents that are occurring at an increasing rate in California’s public schools.85

(c) It is further the intent of the Legislature that schoolsites receiving funds pursuant to this article accomplish all of the following goals:

- (1) Teach pupils techniques for resolving conflicts without violence.
- (2) Train school staff and administrators to support and promote conflict resolution and mediation techniques for resolving conflicts between and among pupils.
- (3) Reduce incidents of violence at the schoolsite.
- (4) Implement programs and instructional curricula that (a) foster cooperation and promote positive interaction among all pupils regardless of race, color, religion, ancestry, national origin, disability, gender, or sexual orientation; (b) develop an understanding of the diversity within California, throughout the nation and in the world; (c) promote the understanding of the dangers of stereotyping and discrimination that have existed throughout history and recognize the protections offered to all by a democratic society; (d) foster an appreciation of the contributions of minority groups to the development of the United States.

§32228.1 (a) The Carl Washington School Safety and Violence Prevention Act is hereby established. This statewide program shall be administered by the Superintendent of Public Instruction, who shall provide funds to school districts ~~◀serving pupils in any of grades 8 to 12, inclusive,▶~~ for the purpose of promoting school safety and reducing schoolsite violence. As a condition of receiving funds pursuant to this article, an eligible school district shall certify, on forms and in a manner required by the Superintendent of Public Instruction, that the funds will be used as described in this section.

(b) From funds appropriated in the annual Budget Act or any other measure, funds shall be allocated to school districts on the basis of enrollment of pupils in grades ~~◀8▶~~ **K** to 12, inclusive, for any one or more of the following purposes:

(1) Providing schools with personnel, including, but not limited to, licensed or certificated school counselors, school social workers, school nurses, and school psychologists, who are trained in conflict resolution. Any law enforcement personnel hired pursuant to this article shall be trained and sworn peace officers.

- (2) Providing effective and accessible on-campus communication devices and other school safety infrastructure needs.
- (3) Establishing an in-service training program for school staff to learn to identify at-risk pupils, to communicate effectively with those pupils, and to refer those pupils to appropriate counseling.
- (4) Establishing cooperative arrangements with local law enforcement agencies for appropriate school-community relationships.
- (5) For any other purpose that the school or school district determines that would materially contribute to meeting the goals and objectives of ~~current law in~~ providing for safe schools and preventing violence among pupils **and of preventing and responding to acts of hate violence and bias related incidents, including implementation of programs and instructional curricula consistent with the goals set forth in this Section and the guidelines developed pursuant to subdivision (b)(1) of Section 233.**

§32228.2 Funds allocated pursuant to subdivision (b) of Section 32228.1 shall be allocated to school districts with jurisdiction over eligible schoolsites, based on enrollment, with a minimum allocation of five thousand dollars (\$5,000) for each schoolsite, or a minimum allocation of ten thousand dollars (\$10,000) for each school district, whichever is greater.

3. Amend Education Code Section 44259 to create “Minimum requirements for preliminary multiple or single subject teaching credentialing by adding a new course in human relations as a prerequisite to obtaining a teacher credential.

Add new subsection (b)(8), which would add a course in human relations as a prerequisite to obtaining a teacher credential:

(b) The minimum requirements for the preliminary multiple or single subject teaching credential, are all of the following:

(1) - (7) . . .

(8) Completion of a comprehensive course in human relations in accordance with the commission’s standards of program quality and effectiveness that includes, at minimum, instruction in the following:

(A) The nature and content of culture,

(B) Cross cultural contact and interactions,

(C) Cultural diversity in the United States and California,

(D) Providing instruction responsive to the diversity of the student population,

(E) Recognizing and responding to behavior related to bias based on race, color, religion, nationality, country of origin, ancestry, gender, disability, or sexual orientation, and

(F) Techniques for the peaceful resolution of conflict.

4. Amend the Requirements for the Cross-cultural, Language, and Academic Development (CLAD) Certificate to Strengthen the Culture and Cultural Diversity

Add a new subsection (e) to Education Code Section 44253.2 Definitions:

(e) “Culture and Cultural Diversity” means an understanding of human relations, including

- (1) the nature and content of culture,
- (2) cross cultural contact and interactions,
- (3) cultural diversity in the United States and California,
- (4) approaches to providing instruction responsive to the diversity of the student population,
- (5) recognizing and responding to behavior related to bias based on race, color, religion, nationality, country of origin, ancestry, gender, disability, or sexual orientation, and
- (6) techniques for the peaceful resolution of conflict.

The Commission on Teacher Credentialing regulations governing CLAD, which appear at Title V, Section 80015(a)(3)(C) of the Code of Regulations, should then be amended to read:

(C) Culture and Cultural Diversity

1. The nature and content of culture,
2. Cross cultural contact and interactions,
3. Cultural diversity in the United States and California,
4. Providing instruction responsive to the diversity of the student population,
5. Recognizing and responding to behavior related to bias based on race, color, religion, nationality, country of origin, ancestry, gender, disability, or sexual orientation, and
6. Techniques for the peaceful resolution of conflict.

VII. ADDITIONAL EDUCATIONAL BACKGROUND INFORMATION

The following is additional information regarding: Standards for teacher preparation; cross-cultural, language and academic development certification; conflict resolution and school safety programs; and intervention programs.

1. Standards for Teacher Preparation

The CTC has established standards for teacher preparation in the various subject areas. Among these are core standards required of all teacher trainees, including a “Diversity and Equity” requirement for all programs and subject matter areas. This standard mandates that all teacher education programs “promote[] educational equity by utilizing instructional, advisement and curricular practices that offer equal access to program content and career options for all students.” The standard further specifies that these teacher trainees are to “understand and appreciate the cultural perspectives and academic contributions” of the various ethnic groups in California, and “be aware of barriers to academic participation and success” that may exist in such an environment.

Standards for social science teacher preparation mandate, among other things, that teachers in training be educated to understand the role of citizens in a democracy, including “an appreciation for the dignity of individuals and the importance of human rights,” an “understand[ing] of individual rights and responsibilities under the United States Constitution,” and an understanding of how to “confront controversial issues in ways that work toward reasoned solutions and that respect the right of individuals to differ.” Social Science teachers are also to develop an ethical perspective that enables them “to investigate the values and ideals of diverse civilizations, and to understand the social and ethical consequences of those beliefs.”

2. CLAD

Although formally an elective, the Cross-cultural, Language and Academic Development certificate (“CLAD”) is now required of new Multiple Subjects (i.e. elementary) teachers in many if not most California school districts. This certificate requires education students to demonstrate a capacity to provide culturally responsive instruction, classroom organization, and interactions, including “facilitating positive interactions among culturally diverse students, and managing conflict and culturally insensitive behavior.” It was suggested to the Panel that this requirement, if mandated and taught conscientiously to all teachers, would go a long way toward

accomplishing the goal of educating a teacher force prepared to teach in California's diverse schools.

CLAD requires additional training (or demonstration of additional skills through examination) in three domains, one of which is "Culture and Cultural Diversity," defined to include the nature and content of culture, cross-cultural contact and interactions, cultural diversity in the United States and California, and providing culturally responsive instruction. The knowledge and skills assessments for the Culture and Cultural Diversity component of CLAD focus on such areas as the nature of culture, cross-cultural contact and interactions, cultural diversity in California and the United States, providing culturally responsive instruction, and strategies for learning about diverse student cultures. As currently in force, the CLAD requirements do not specifically address training in the recognition of and appropriate response to bias-motivated behavior. Nor do the CLAD requirements address training in the techniques of peaceful conflict resolution.

The Auditor found that many schools use general funds to pay for the programs they institute. Other sources of funding include the School Improvement Program ("SIP"), state grants and federal grants. In addition, the Auditor takes note of the \$100 million recently allocated by the School Safety and Violence Prevention Act for school safety projects in middle and high schools as another potential source of funding for the implementation of conflict resolution programs.

3. Legislatively Established Conflict Resolution and School Safety Programs

The School Safety and Violence Prevention Act, enacted this year (AB 1113 (Chapter 51, Statutes of 1999)), and the Budget Act provide a total of \$100 million (\$71.1 million ongoing and \$28.9 million one-time) of supplementary funds for which school districts and county offices of education may apply for to improve school safety. Specifically, the funds are to be used for purposes such as providing personnel trained in conflict resolution, providing on-campus communication devices, establishing staff training programs, and establishing cooperative arrangements with law enforcement agencies, or any other purpose designed to reduce youth violence or improve school safety.

This act also established the School Violence Prevention and Response Task Force consisting of the Superintendent of Public Instruction, the Attorney General, the Director of the Office of Criminal Justice Planning, the Secretary for Education, and 12 individuals representing

educators, health care practitioners, and members of the law enforcement community, each with expertise in school-based crisis prevention and response. The act requires the task force to perform various duties, including, among others, analyzing and evaluating current statutes and programs in the area of school-based crisis prevention and response, and making appropriate policy recommendations on how to enhance state and local programs and training to adequately prepare school districts and county offices of education to meet the challenges stemming from disruptive and violent acts, or both, on or near school campuses.

4. Conflict Resolution and School Safety Programs established by the State Department of Education

In an attempt to reduce conflict and violent incidents on school campuses over time, the Department of Education has supported conflict resolution as a means of engaging and empowering students to make campuses safer. The Department has funded thirty-one school districts to send school teams from elementary, middle or junior high, and high schools to attend a three-day training this year.

In addition, the School/Law Enforcement Partnership of the Department of Education's Safe Schools and Violence Prevention Office and the Attorney General's Crime and Violence Prevention Center has established a Comprehensive Conflict Resolution/Youth Mediation Grant Program. This grant provides up to \$10,000 to schools seeking to initiate and implement a comprehensive conflict resolution/youth mediation program. Up to 28 district programs are expected to be funded over two years beginning in April 2000. The grant is only available to public schools that do not have an existing conflict resolution program. The proposed programs must be comprehensive, that is, they must include the training of students to conduct peer mediation, inclusion of conflict resolution principles in coursework, and training of parents, teachers, students, and staff in the principles of conflict resolution. The Program provides a list of training resources, and allows districts to choose their own provider and curriculum; it does mandate that the training be for at least three days.

5. Intervention

The High-Risk Youth Education and Public Safety Program provides \$3.6 million for two grant programs to school districts and county offices of education: the High-Risk First Time Offender Grant Program and the Transitioning High-Risk Youth Grant Program. These funds provide resources for developing, implementing, and evaluating strategies that enlist adjudicated

youth and provide them educational and community services and supervision. The intent is to prevent these youth from entering the juvenile justice system and to help similar youth who are reentering school from juvenile camps, ranches, or halls. Some important elements in this effort include: (1) a multidisciplinary, collaborative, and family-focused approach that combines education with community services and law enforcement; (2) a continuum of care that spans prevention, early intervention, treatment, and re-entry into the system of the school environment; (3) ongoing collaboration between education and probation; and (4) a structured daily program of 8-12 hours that includes a minimum of four hours of academic instruction on every school day.

A significant amount of school racial tension is promoted by groups organized in a manner similar to, or directly by, what would typically be referred to as street gangs. The Gang Risk Intervention Program (GRIP) is a gang intervention program that involves parents, teachers, school administrators, nonprofit community organizations, and gang experts. The program goals include: (1) reducing the probability of youth involvement in gang activities and consequent violence; (2) establishing ties, at an early age, between youth and community organizations; and (3) committing local business and community resources for positive programming for youth. Schools and districts with GRIP programs provide counseling for students, connect students to positive sports and cultural activities; provide job training to students, which may include apprenticeship programs and career exploration in the community; and provide opportunities for youth to have positive interaction with law enforcement officers. GRIP began through a special project in Los Angeles County, and with its success, has now expanded to fourteen additional counties in California.

The California Department of Education safe school program grants are summarized as follows:

Safe Schools Grant Programs, 1998-99

<i>Grant</i>	<i>Amount of Funding</i>	<i>Purpose</i>	<i>Who is Eligible</i>
Safe School Plan Implementation Grants (Requires a Safe School Plan)	Up to \$5,000 each (plus district matching fund); up to 100/year issued	To assist schools in implementing a portion of their Safe School Plan	Schools
Conflict Resolution & Youth Mediation Grant Program	\$2,000 per school \$8,000 per district team	To provide training to feeder school teams in conflict resolution	School districts
School Community Violence Prevention Grant Program	Up to \$170,000 each over a 4-year period	To address local communities' own unique needs related to non-violence strategies	School districts and county offices of education
GRIP (Gang Risk Prevention Program)	\$3 million statewide each year	To intervene and prevent gang violence	County offices of education (Grant award preference to existing programs)
Targeted Truancy and Public Safety Grant Program	\$10 million for 10 sites (3-year demonstration grant)	To implement integrated interventions to prevent repeated truant and related behaviors	School districts and county offices of education
High-Risk First-Time Offender and Transitioning High-Risk Youth Grant Programs	\$20 million for 1998-99 (5-year projects)	To design and implement early interventions to prevent chronic juvenile delinquency	School districts and county offices of education
Student Leadership Grant Program	\$1,000 to \$5,000 each	To implement safe/healthy school projects that are designed and led by students	High schools
Title IV Safe & Drug Free Schools & Communities (not a competitive grant)	Approximately \$4.80 per pupil (federal fund entitlement)	To initiate and maintain alcohol, drug, tobacco, and violence prevention programs in schools	County offices of education and school districts receive entitlements